A
000 692 053
2
UC SOUTHERN REGIONAL LIBRARY FACILITY

E. & Byl.

THE LIBRARY
OF
THE UNIVERSITY
OF CALIFORNIA
LOS ANGELES

SCHOOL OF LAW

GIFT OF
Walter W. Atkinson
Dell L. Falls
C. Douglas Wikle
Of class of '53L

Digitized by the Internet Archive
in 2007 with funding from
Microsoft Corporation

http://www.archive.org/details/manualcorpmgmt00conyiala

A MANUAL

OF

CORPORATE MANAGEMENT

CONTAINING

FORMS, DIRECTIONS AND INFORMATION FOR THE USE OF LAWYERS AND CORPORATION OFFICIALS

E. C. Byrn.

BY

THOMAS CONYNGTON OF THE NEW YORK BAR

NEW YORK
THE RONALD PRESS

1903

T
C76996cm
1903

COPYRIGHT, 1903,
BY
THE RONALD PRESS

12-10-59 SJ

INTRODUCTION.

The purpose of the present volume is to furnish a compact, well-arranged and reliable work on corporate management for the use of lawyers and corporation officials. The many details of corporate procedure have been collated, stated as clearly as may be and with due comment, and so set forth with full index and plentiful cross-references as to permit of ready and convenient reference.

Corporate organization is treated incidentally and only so far as is requisite for a clear understanding of the text, the general subject of organization being reserved for a subsequent volume.

Any general discussion of the local statutes by which the principles of corporation law are modified and supplemented in the various states is utterly precluded by the limits of the present volume. New York and New Jersey have therefore been selected as best representing the modern development of corporation law and the work prepared with special reference to their statutes and practice. In other states the statutes must be consulted for local requirements or regulations.

No pains have been spared to make the entire work accurate, reliable and in accord with the best modern practice. Particularly is this true, however, of the collated forms presented in Part IV. These forms cover almost the entire range of ordinary corporate procedure, are those approved by the leading corporation attorneys and may be used with confidence. Some few forms—as those pertaining to bond issues—have been omitted because of the excessive space required for their adequate treatment.

The forms given are presented as precedents and without the usual blanks where variable matter occurs. A better idea of the instrument as a whole is thereby given. Also, the changes necessary to adapt a form to any special need are more readily made from the completed instrument than from one disjointed by frequent and sometimes puzzling omissions.

The author takes this opportunity to sincerely thank the many friends, both lay and professional, who have aided him in the present volume; also to express the hope that he will receive from those into whose hands the work may come, all such further suggestions and criticisms as will tend to the improvement of future editions.

THOMAS CONYNGTON.

No. 170 BROADWAY,

New York City, May 1, 1903.

TABLE OF CONTENTS.

PART I.—INTRODUCTORY.

Chapter I.—General Information.

§ 1. The Corporation.
2. Stock Corporations.
3. Joint Stock Companies.
4. Business Corporations.
5. Stock.
6. Stockholders.
7. Certificates of Stock.
8. Formation of a Corporation.
9. The Corporate System.
10. Charter.
11. By-Laws.
12. Directors.
13. Officers.
14. Advantages of Corporate Form.
15. (1) Limited Liability.
16. (2) Convenience of Stock.
17. (3) Permanence.

Chapter II.—The Charter.

§ 18. The Charter.
19. Parties.
20. Purposes.
21. Execution of Charter.
22. Amendment of Charter.
23. Filing Charter.
24. Incidental Powers.
25. (1) To Sue and be Sued.
26. (2) To Use a Seal.
27. (3) To Buy, Sell and Hold Property.
28. (4) To Appoint Directors, Officers and Agents.

29. (5) To Make By-Laws.
30. (6) To Dissolve the Corporation.
31. (7) To Do All Things Necessary.
32. Things "Ultra Vires."

PART II.—CONCERNING BY-LAWS.

Chapter III.—By-Laws.

§ 33. Nature of By-Laws.
34. Making of By-Laws.
35. Amendment of By-Laws.
36. Enforcement of By-Laws.
37. Non-observance of By-Laws.
38. Classification of By-Laws.
39. Record of By-Laws.

Chapter IV.—Stock.

§ 40. Introductory.
41. Kinds of Stock.
42. Subscriptions.
43. Certificates of Stock.
44. Transfers of Stock.
45. Lost Certificates.
46. Stock and Transfer Books.
47. Preferred Stock.
48. Treasury Stock.
49. General.

Chapter V.—Stockholders.

§ 50. Annual Meetings.
51. Special Meetings.
52. Notice of Meetings.
53. Voting.
54. Election of Directors.
55. Quorum.
56. Proxies.
57. Officers of Meetings.
58. Order of Business.
59. Rights of Stockholders.
60. Powers of Stockholders.
61. Liabilities of Stockholders.
62. General.

Chapter VI.—Directors.

§ 63. Number and Authority.
64. Qualifications.
65. Vacancies.
66. Classification.
67. Regular Meetings.
68. Special Meetings.
69. Notice of Meetings.
70. Quorum.
71. Election of Officers.
72. Compensation of Directors.
73. Power to Pass By-laws.
74. Executive Committee.
75. Corporation Offices.
76. Order of Business.
77. Liabilities of Directors under New York Law.
78. Liabilities of Directors under New Jersey Law.
79. Liabilities of Directors under Common Law.
80. General.

Chapter VII.—Officers.

§ 81. Enumeration, Election and Qualifications.
82. Vacancies and Removals.
83. The President.
84. The Vice-President.
85. The Secretary.
86. The Treasurer.
87. Managing Director.
88. General Manager.
89. Counsel.
90. Liabilities of Officers.
91. General.

Chapter VIII.—Dividends and Finance.

§ 92. Dividends.
93. Reserve Fund.
94. Debt.
95. Bank Deposits.
96. Surplus.

Chapter IX.—Sundry Provisions.

§ 97. Corporate Seal.
98. Penalties.
99. Amendments.
100. Parliamentary Law.
101. General.

PART III.—PROCEDURE.

Chapter X.—Stockholders' Annual Meeting.

§ 102. Preliminaries.
103. Opening the Meeting.
104. Roll Call.
105. Proof of Notice.
106. Reading of Minutes.
107. Annual Reports.
108. Election of Directors.
109. Other Business.
110. Adjournment.
111. Signing the Minutes.
112. General.

Chapter XI.—Stockholders' Special Meeting.

§ 113. Preliminaries.
114. Opening the Meeting.
115. Roll Call.
116. Proof of Call and Notice.
117. Special Business.
118. Disposal of Special Business.
119. Adjournment.
120. General.

Chapter XII.—Directors' Regular Meeting.

§ 121. Preliminaries.
122. Opening the Meeting.
123. Proof of Notice.
124. Reading of Minutes.
125. Reports.
126. Unfinished Business.
127. New Business.
128. Adjournment.
129. General.

Chapter XIII.—Directors' Special Meeting.

§ 130. Preliminaries.
131. Opening the Meeting.
132. Proof of Call and Notice.
133. Special Business.
134. Disposal of Special Business.
135. Adjournment.
136. General.

Chapter XIV.—Minutes.

§ 137. The Minute Book.
138. Contents of Minute Book.
139. Forms for Minutes.
140. Amendment of Minutes.
141. Taking Proceedings.
142. Motions and Resolutions.
143. Outline Minutes.
144. "Cut and Dried Minutes."

Chapter XV.—Corporation Books.

§ 145. Treasurer's Books.
146. Secretary's Books.
147. Stock Certificate Book.
148. Transfer Book.
149. Stock Book.
150. Stock Ledger.
151. General.

Chapter XVI.—Sundry Duties of the Secretary.

§ 152. Execution of Contracts.
153. Reports and Statements.
154. Tax Reports.
155. Corporate Calendar.
156. Finale.

PART IV.—FORMS.

Chapter XVII.—Subscription Lists.

Form.
1. Subscription List. Simple Form.
2. Subscription List. Preliminary Payment to Trustee.
3. Subscription List. Agreement with Promoters.
4. Subscription Blank. Individual.
5. Subscription List. Preferred Stock with Bonus.
6. Subscription Blank. After Organization.

Chapter XVIII.—Receipts for Subscriptions.

Form.
7. Trustee's Receipt.
8. Treasurer's Receipt.
9. Assignment of Treasurer's Receipt.
10. Instalment Certificate or Scrip.

Form.
11. Endorsement for Instalment Payments.
12. Assignment of Instalment Certificate.
12*a*. Assignment of Instalment Receipt.

Chapter XIX.—Stock Certificates.

Form.
13. Stock Certificate with Stub.
14. Usual Form of Stock Certificate Stub.
15. Preferred Stock Certificate.
16. Preferred Stock Certificate. Special Form.
17. Assignment in Blank of Stock Certificate.
18. Assignment of Stock Certificate. Complete.

Chapter XX.—Charter Forms.

Form.
19. New York Charter.
20. New Jersey Charter.

Chapter XXI.—By-Laws.

Form.
21. By-laws. Short Set.
22. By-laws. Long Set.

Chapter XXII.—Proxies.

Form.
23. Simple Proxy. Unlimited.
24. Simple Proxy. Time Limited.
25. Simple Proxy. Particular Meeting.
26. Formal Proxy. Annual Meeting.
27. Formal Proxy. For Specific Action.
28. Corporate Proxy.
29. Trustee's Proxy.
30. Revocation of Proxy.

Chapter XXIII.—Motions.

Form.
31. To Receive and File Treasurer's Report.
32. To Pay Bills.
33. To Pay Disputed Account.
34. To Purchase Engines.

Chapter XXIV.—Resolutions.

Form.
35. To Open Bank Account. (Directors'.)
36. To Authorize Execution of Contract. (Directors'.)
37. To Declare Dividend. (Directors'.)

Form.
38. To Appoint Managing Director. (Directors'.)
39. To Call Special Meeting of Stockholders. (Directors'.)
40. To Ratify Sale of Property. (Directors'.)
41. To Authorize Sale of Entire Assets. (Stockholders'.)
42. To Authorize Sale of Entire Assets. Conditional. (Stockholders'.)
43. To Sell Entire Assets. (Directors'.)
44. To Authorize Issuance of Stock for Property. (Stockholders'.)
45. To Issue Stock for Property. (Directors'.)

Chapter XXV.—Resignations.

Form.
46. Resignation of Director.
47. Resignation of Director. Effective on Acceptance.
48. Resignation of Director. Immediate.
49. Resignation of Director. Future Date.
50. Resignation of President.
51. Resignation of President. Conditional.
52. Resignation of Treasurer.

Chapter XXVI.—Notices.

Form.
53. Notice of Stock Assessment.
54. Waiver of Assessment Notice. New Jersey.
55. Notice of Dividend.
56. Notice of Dividend. Preferred Stock.
57. Notice of Election as Director.
58. Notice of Election as Director. Requesting Acceptance.
59. Notice of Election as General Manager.

Chapter XXVII.—Exchange of Property for Stock.

Form.
60. Proposal to Exchange Property for Stock.
61. Proposal to Exchange Property for Stock. With Assignment of Subscriptions.

Chapter XXVIII.—Meetings.

Form.
62. Order of Business. Stockholders' Meetings.
63. Order of Business. Directors' Meetings.
64. Alphabetical List of Stockholders. New Jersey.
65. Secretary's List of Stockholders.
66. Outline Minutes for Annual Meeting.

Chapter XXIX.—Inspectors' Oaths and Certificates.

Form.
67. Oath of Inspectors. New York.
68. Inspectors' Certificate of Election. New York.
69. Oath of Inspectors. New Jersey.
70. Inspectors' Certificate of Election. New Jersey.

Chapter XXX.—Annual Reports.

Form.
71. President's Annual Report.
72. Treasurer's Annual Report.
73. Report of Committee on By-laws.

Chapter XXXI.—Calls and Waivers.

Form.
74. First Meeting of Stockholders. Short.
75. First Meeting of Stockholders. Full Form.
76. First Meeting of Directors.
77. Special Meeting of Stockholders.
78. Special Meeting of Directors.
79. Special Meeting of Directors. By Consent.

Chapter XXXII.—Calls.

Form.
80. President's Call for Special Meeting of Stockholders.
81. Directors' Call for Special Meeting of Stockholders.
82. Stockholders' Request for Special Meeting of Stockholders.
83. President's Endorsement of Stockholders' Request.
84. President's Call for Special Meeting of Directors.

Chapter XXXIII.—Notices of Meetings.

Form.
85. Special Meeting of Stockholders.
86. Special Meeting of Stockholders. Publication.
87. Annual Meeting of Stockholders.
88. Annual Meeting of Stockholders. Publication.
89. Special Meeting of Directors.
90. Regular Meeting of Directors.

Chapter XXXIV.—Minutes of First Meetings.

Form.
91. Minutes of First Meeting of Stockholders.
92. Entry in Minutes for Election of Directors.
93. Entry in Minutes for Election of Directors. Formal.
94. Minutes of First Meeting of Directors.

Chapter XXXV.—Minutes of Special Meetings.

Form.
95. Minutes of Special Meeting of Stockholders.
96. Minutes of Adjourned Meeting of Stockholders.
97. Minutes of Directors' Special Meeting.

Chapter XXXVI.—Minutes of Regular Meetings.

Form.
98. Annual Meeting of Stockholders.
99. Regular Meeting of Directors.

Chapter XXXVII.—Corporate and Official Signatures.

Form.
100. Official Signature.
101. Official Signature. Complete.
102. Stamp for Corporate Signature.
103. Corporate Signature. Formal.
104. Corporate Signature. Seal attested.
105. Testimonium Clause. Corporate Signature.
106. Testimonium Clause. Two Corporate Signatures.
107. Testimonium Clause. Corporate and Individual Signatures.
108. Testimonium Clause. By Agent.
109. Corporate Receipt. Official Signature.
110. Corporate Receipt. Formal Signature.

Chapter XXXVIII.—Commercial Paper.

Form.
111. Corporate Note. Signature by President.
112. Corporate Note. Signature by Treasurer.
113. Corporate Note. Collateral Security.
114. Corporate Draft. Formal Signature.
115. Check. Corporate Signature.
116. Check. Corporate Signature. Countersigned.
117. Check. Official Signature.
118. Check. Official Signatures. Purpose Stated.
119. Endorsement of Check payable to Corporation.
120. Endorsement of Check for Deposit.

Chapter XXXIX.—Acknowledgments, Certificates, Etc.

Form.
121. Notarial Acknowledgment. New York.
122. Notarial Acknowledgment. New Jersey.
123. Treasurer's Affidavit to Financial Statement.
124. Secretary's Certificate to Due Service of Notice of Meeting.
125. Secretary's Affidavit to Due Service of Notice of Meeting.
126. Secretary's Affidavit to Publication of Notice of Meeting.

Form.
127. Certified Extract from By-laws.
128. Certified Resolution.
129. Certified Transcript from Minutes.
130. Certification of Minutes. President and Secretary.
131. Secretary's Affidavit to Certified Minutes.

Chapter XL.—Corporate Powers of Attorney.

Form.
132. To Collect Money.
133. To Sell Machinery.
134. To Make Delivery of Deed.
135. To Manage, Sell and Deed Land.
136. Appointing General Agent.
137. Appointing Agent for Specific Purposes.

Chapter XLI.—Sundry Corporate Instruments.

Form.
138. Bill of Sale.
139. Assignment of Patent. Individual to Corporation.
140. Assignment of Patent. Corporation to Corporation.
141. Assignment of Contract.
142. Assignment of Contract. Endorsement Form.
143. Chattel Mortgage. New York.
144. Deed. New York.

Chapter XLII.—Corporate Books and Sundry Forms.

Form.
145. Transfer Book.
146. Stock Book and Stock Ledger Combined.
147. Stock Ledger.
148. Secretary's Oath.
149. Treasurer's Bond.
150. Indemnity Bond. For Re-issued Certificate.

Chapter XLIII.—The Corporate Calendar.

Form.
151. Corporate Calendar. New York.
152. Corporate Calendar. New Jersey.

CORPORATE MANAGEMENT.

PART 1.—INTRODUCTORY.

CHAPTER I.

GENERAL INFORMATION.

§ 1. The Corporation.

A corporation is an association of individuals, authorized by law to act as a whole under a corporate name for some particular purpose or purposes. There are corporations of many kinds, classified usually according to their objects, as social, financial, business, manufacturing, municipal, transportation, religious, charitable, educational and the like. (See § 4.) The word "company" is commonly used as a synonym for the word "corporation."

§ 2. Stock Corporations.

A stock corporation is one in which the authorized capital known as the "capital stock," is divided into shares, usually equal, and these shares, representing the respective interests of the owners in the property of the corporation, ordinarily entitle these owners to vote at corporate meetings and to participate in proportion to their interests, both in any corporate profits and in the assets of the corporation on its dissolution. These shares are designated "stock," the owners "stock-

holders." As a general rule the owner of a paid-up share of stock is not liable for any debts of the corporation. (See §§ 5, 16, 17; also Chaps. IV and XIX.)

§ 3. Joint Stock Companies.

A joint stock company is practically a partnership, authorized by law to act under a corporate name and to issue stock to its members. This stock represents the respective interests of the members, but these latter are liable for the debts of the company exactly as in an ordinary partnership. The arrangement is of doubtful utility. In some states the term is loosely and incorrectly used to designate ordinary corporations.

§ 4. Business Corporations.

In New York stock corporations formed to carry on mining, manufacturing or mercantile enterprises, are called "business corporations," to distinguish them from companies formed for banking or insurance, which are termed "moneyed corporations," and from railroad, telegraph, ferry and other like companies, which are called "transportation corporations." These other corporations are usually subject to much stricter regulations than "business corporations," but enjoy more extensive powers. The present volume treats specifically of the management of "business corporations," though in most particulars the rules are equally applicable to all other classes of stock corporations.

§ 5. Stock.

The capital of a stock corporation is represented by shares called stock, and the whole of these shares make up the capital stock of the company. The amount of this capital stock is fixed by its charter. Usually shares of stock may have any face or par value, though under New York laws, five dollars is the minimum, and one hundred dollars is the maximum. One

hundred dollars is the most common and convenient par value. The nominal or face value of stock is fixed by the charter of the corporation. The real value, which may be many times more, or much less than the face value of the stock, depends upon the value of the corporate property or the rate of dividends. One person may own any amount of stock in a company, even to the extent of buying up all the shares issued. (See §§ 2, 16, 17; also Chaps. IV and XIX.)

§ 6. Stockholders.

Subscribers to the capital stock of a company, or purchasers of its stock, are stockholders of such company. Stockholders are ordinarily entitled to vote in corporate meetings, casting one vote for each share of stock owned. They are also entitled to share proportionately in all profits, and, upon its dissolution, in the assets of the company. (See Chap. V.)

§ 7. Certificates of Stock.

For convenience, the shares of a stock corporation are usually represented by transferable "certificates of stock" which are issued to the subscribers or purchasers to evidence their ownership of the stock acquired. (See §§ 42, 43, 44.) Stock certificates are commonly, as a matter of convenience, referred to as "stock." They are not really stock, but only evidences of the ownership of stock, as a deed is evidence of the ownership of land but is not land itself.

§ 8. Formation of a Corporation.

A corporation cannot be formed like a partnership, merely by the contract or agreement of the parties, but its organization must be expressly authorized by law and evidenced by a charter, or certificate of incorporation, granted by the State. In the different states the formalities necessary to obtain a charter are prescribed by statute, and must be exactly followed. (See Chap. II; also Forms 19 and 20.)

§ 9. The Corporate System.

In each state special laws have been enacted for the regulation of corporations. In addition, under the provisions of these laws, corporations may still further limit and regulate their own operations by charter and by-law provisions. Usually each year the stockholders hold an annual meeting and elect a board of directors to manage the company affairs and property. The directors, in turn, elect executive officers. The directors pass motions and resolutions which the executive officers carry into effect.

§ 10. Charter.

The charter, or certificate of incorporation, answers to the constitution of a state or nation. It is the fundamental law of the corporation. From it are derived the existence and all the powers of the corporation. It should be prepared with much care and with foresight for the needs of the future. (See Chap. II; also Forms 19 and 20.)

§ 11. By-Laws.

By-laws are the permanent rules of corporate action. They are usually adopted by the stockholders assembled in lawful meeting, though the board of directors have this power when specially authorized thereto by the charter, or by the laws of the State. (See § 29; also Part II.)

§ 12. Directors.

The directors are elected by the stockholders at the annual meeting, and are the governing authority of the corporation. The number of directors is commonly prescribed in the charter, and for convenience is usually an odd number, from three upward. They have charge of the property and business of the company. In New Jersey the number of directors is fixed by the by-laws. (See Chap. VI.)

§ 13. Officers.

The officers of the company are usually elected by the directors at their first meeting in each year. The necessary officers of a corporation are a president, a treasurer and a secretary. These last two officers are often filled by one person. In the larger corporations, vice-presidents, assistants to the treasurer and secretary, and other officers are elected. The directors are sometimes referred to as officers of the company, though the practice is liable to cause confusion. (See Chap. VII.)

§ 14. Advantages of Corporate Form.

The principal advantages of the corporate form are:

1. The limited liability of stockholders in case the company becomes insolvent. (See § 15.)
2. The simplicity and convenience of the system of dividing the capital into shares, represented by certificates, and transferable by endorsement. (See § 16.)
3. The continuance of the organization, notwithstanding the change, death or insolvency of its members. (See § 17.)

§ 15. (1) Limited Liability.

A subscriber to the stock of a corporation is liable for the debts of the company to the unpaid par value of his stock. But having once paid this amount his stock becomes "full-paid," and, as a general rule, he is no longer liable for any debts or obligations of the company. Neither is anyone who thereafter buys such stock liable, as once full-paid it is always full-paid. This is the great advantage of corporate investments, rendering it possible for a man to engage in a corporate enterprise and know at all times exactly how much he is risking. In a partnership, on the contrary, each partner, no matter how small his interest, is liable for every debt of the firm incurred while he is a member thereof.

§ 16. (2) Convenience of Stock.

An interest in a corporation is represented by transferable certificates, by means of which a stockholder may readily sell this interest in whole or in part, or use it as collateral upon which to borrow money. In a partnership, on the contrary, it is difficult for a partner to sell his interest, and impossible for him to use it as collateral.

§ 17. (3) Permanence.

By means of the system of stock shares, the members of a corporation may continually change, while the company remains unaffected. No disagreement, disability or insolvency of its stockholders need affect a corporation. To a partnership anything of the kind is fatal. A corporation, unless it voluntarily dissolves, becomes insolvent, or the period of existence fixed by its charter expires, goes on forever. Because of this stability, many enterprises are never undertaken except under a corporate organization.

CHAPTER II.

THE CHARTER.

§ 18. The Charter.

The foundation for a corporation is the charter granted by the State. (See Forms 19 and 20.) This instrument is also known as the certificate of incorporation or the articles of association. Legally there is no difference in the terms. In this work, the word charter is generally used, because it is the oldest term and also the shortest. The formalities incident to securing a charter vary slightly in the different states. The organization fees vary widely. In all cases where any values are involved, as a matter of ordinary prudence, the charter should be drawn by a competent lawyer.

§ 19. Parties.

The parties applying for a charter must be natural persons of full age, and usually some proportion of the number must be citizens of the state in which application is made. Minors, partnerships, or other corporations, would not be competent parties, although they could hold stock after the corporation was formed. The number of applicants must not be less than three. Each must subscribe for one or more shares of stock, and all must sign and acknowledge the certificate of incorporation. These applicants are termed " Incorporators."

§ 20. Purposes.

The purposes for which the incorporation is to be formed must be set forth in the charter, and must be such as are allowed by the laws of the State. Ordinary business corporations are

allowed much latitude in stating their purposes, and are not confined to one business or line of activity. In New York and New Jersey almost the only limitation is that the charter purposes must not extend to banking, insurance, transportation, and those other similar businesses, which are required to be chartered under special laws and with special formalities.

§ 21. Execution of Charter.

The execution of the certificate of incorporation by the incorporators is the first step towards organization under the laws of most of the states. A charter under the laws of New York, in the simplest form, filled out and executed, is given in Part IV, Form 19. Form 20, immediately following, gives the New Jersey form. With slight changes this is the charter form used in most of the states. It is signed by the incorporators and then acknowledged before some competent officer.

§ 22. Amendment of Charter.

The amendment of a charter usually requires as much or more formality than the securing of the original charter, and requires the services of a competent attorney. In New York the formalities vary with the nature of the amendment, as follows:

To change the corporate name requires a petition to some court having jurisdiction, and after a hearing, the change will be authorized by an order of the court, provided no reason is shown for a refusal of the request.

To alter or extend the business requires an amended certificate executed by a majority of the directors, stating that the same has been authorized by the holders of at least three-fifths of the capital stock at a meeting called in the statutory manner.

To authorize the issue of preferred stock, the holders of two-thirds of the capital stock must vote in favor of the issue.

To increase or decrease the number of shares without increasing or decreasing the capital stock requires also a two-thirds stock vote.

To change the number of directors or to change the place of business requires a majority vote of all the stock.

To increase or reduce the capital stock likewise requires a majority stock vote, or it can be accomplished by the unanimous written consent of all the stockholders, without any meeting.

In all these cases, the proper certificate or order must be filed in the same offices as the original charter, and the proper fees paid in each case.

In New Jersey the procedure is simpler. If the change is to be made after the charter has been filed, but before the company has been organized, the original incorporators can file an amended certificate that will be deemed to have the date of the original. After organization, if any amendment is necessary, the directors pass a resolution declaring such change advisable, and if two-thirds of the stockholders in interest vote for it at a duly called meeting, a certificate is made out setting forth the desired amendment, and is filed in the same manner as an original charter. It is possible, however, to move the principal office to any other place in the State by a two-thirds vote of the directors alone. In such case a copy of the resolution ordering such move must be filed with the Secretary of State. In other states, the general procedure is similar, but the details must be obtained from the laws of the particular state.

§ 23. Filing Charter.

In New York, the charter after being signed and acknowledged as shown in Form 19, and after payment of the proper fees, is filed and recorded with the Secretary of State at Albany. A duplicate copy is then filed with the County Clerk of the county where the corporation is to have its principal office. The Secretary of State acknowledges the receipt of the duly executed charter and certifies to its filing as a matter of course. If paid for so doing, he will also furnish a certified copy of the instrument.

As soon as the charter is filed and the sum of five hundred dollars, or whatever greater sum may have been named in the charter as the amount with which the company will begin business, has been paid, either in money or property, the new corporation is fully authorized to begin its operations.

As the directors for the first year are named in the charter, a preliminary or "first" meeting of the stockholders is not essential. Such meeting is, however, usually held for the purpose of accepting the charter, adopting by-laws and approving any extensive purchases or contracts necessary to start the new company in its business. In most states directors must be elected, and this first meeting of stockholders is necessary before the corporation can do any business whatever.

In New Jersey the charter must be recorded with the County Clerk first and then with the Secretary of State. As the directors are not named in the charter it is essential that there be a first meeting of stockholders. (See § 120; also Forms 91, 92, 93.)

§ 24. Incidental Powers.

In addition to the powers expressed in the charter given in Form 19, sundry other special powers might have been specified in additional articles. Often these powers are set forth at great length. In addition to these special powers, however, and whether specified in the charter or otherwise, every corporation has inherently the powers set forth in the seven following sections. These are implied or incidental powers common to every corporation.

§ 25. First: To Sue and be Sued.

A corporation is a legal entity, an artificial person. It can therefore become a party to a suit under its corporate name. This power to institute suit under the corporate name, instead of making every member of the corporation a party to the litigation, as must be done in a partnership, has always been accounted a valuable corporate right.

§ 26. Second: To Use a Seal.

The corporation seal is still an important property, and is used on stock certificates, deeds and other important instruments, though its use is not so highly esteemed as it was in former days. (See §§ 97, 152; also Form 104.)

§ 27. Third: To Buy, Sell and Hold Property.

This power is necessary in order to carry out the corporate purposes, and is now taken as a matter of course. In some states the ownership of land by corporations is limited, and generally a corporation is not allowed to hold stock in another corporation. In New York, a special provision must be inserted in the charter to secure this last power. (See Section Tenth, Form 19.) In New Jersey all corporations are expressly empowered by statute to exercise this power.

§ 28. Fourth: To Appoint Directors, Officers and Agents.

This power is essential, as in no other way could the corporation act. Directors are elected by the stockholders. Officers are appointed by the board of directors, and other agents are appointed either by the board, or by the officers, under instructions from the board.

§ 29. Fifth: To Make By-Laws.

The charter is usually expressed in general terms and does not go into detail. To supplement the charter provisions the stockholders have power to pass by-laws regulating the action of the directors and officers, and, generally, the management of the company. By-laws should be carefully drawn and afterwards carefully observed.

§ 30. Sixth: To Dissolve the Corporation.

A corporation has power to dissolve itself by the unanimous agreement or consent of all its stockholders. In both New

York and New Jersey it is further provided that a corporation may be dissolved with the consent of two-thirds of its stockholders. To accomplish this the statutory proceedings must be closely followed; a stockholders' meeting must be called by the directors; it must be duly advertised, the stockholders notified, and their consent be properly evidenced to the state authorities. Thereupon the directors are empowered to settle all outstanding obligations and divide any remaining assets among the stockholders.

In event of a corporation's insolvency, proper legal proceedings result in the appointment of a receiver to settle its affairs and usually to terminate its existence.

Failure to pay taxes due the State is cause for the forfeiture of the charter, by action of the Attorney General.

Many corporations fail in their purposes, and, having neither assets nor liabilities of sufficient amount to justify a formal dissolution, are often simply abandoned by their stockholders and officers. Such corporations are not dissolved until their term of existence expires, or their charters are forfeited by the State. At any time prior to the forfeiture or expiration of their charters, they may be revived by paying their delinquent taxes, or other liabilities.

§ 31. Seventh: To Do All Things Necessary.

This power includes most of the other powers. Having been given the right to conduct some particular business, this carries with it the right to do all things necessary to carry on that business. For instance, while the right to hold real property is not usually held to be a corporate right, yet, if it was necessary to buy land for the purpose of its authorized business, it could do so. The right has been liberally construed; and to-day there are very few things that can be done by a partnership that cannot be done by a corporation. Further, under most of the modern codes of corporate law, it is permitted to draw the charter so broadly as to secure almost any power that could possibly be desired.

§ 32. Things "Ultra Vires."

A corporation is usually incorporated for certain specified purposes. Later, its directors may see opportunities to branch out in other directions. If they attempt to take advantage of these, they are exceeding the corporate powers and may become seriously involved. These things which a corporation cannot do, which are beyond its powers, are termed in legal parlance, "ultra vires." Owing to the exceedingly broad powers granted in most modern charters, the doctrine is now of less importance than formerly.

A corporation's powers are defined by its charter. When it goes beyond these, its contracts are illegal. The corporation cannot enforce such contracts against others, although sometimes they may be enforced against the corporation. Directors and officers may make themselves personally liable for involving the corporation in such transactions. Creditors and stockholders have the right to object to any action that is beyond the legal powers of the company. Those managing a corporation should look carefully to their charter and the laws of the State, and refrain from any transactions save those that are clearly authorized or necessarily implied from the powers granted.

PART II.—CONCERNING BY-LAWS.

CHAPTER III.

BY-LAWS.

§ 33. Nature of By-Laws.

By-laws are the permanent rules of a corporation, as distinguished from motions and resolutions, which usually apply only to particular occasions and exigencies. The grant of a charter confers without specific mention the power to make by-laws, which usually belongs to the stockholders alone, though of late years it is common to delegate more or less of this power to the directors. The power should be used with discretion, for the by-laws are the working rules of the company, and if carelessly drawn may seriously impede necessary business operations, or, on the other hand, fail to restrain reckless or improvident action of directors and officers.

By-laws must be reasonable and equitable or they are of no effect. For instance, a by-law allowing certain members of the corporation priority in the payment of dividends could not be enforced. It is not in the power of the majority to favor themselves or to oppress the minority by unjust and unfair regulations.

By-laws, as a matter of course, must conform to the constitution and statutes of the state and to the provisions of the charter of the company. If a by-law conflicted with these higher authorities it would be void.

§ 34. Making of By-Laws.

A set of by-laws is usually adopted by the stockholders at their first meeting, and other by-laws added from time to time as the necessity arises. The stockholders, in duly called stock-

holders' meeting, alone have power to adopt by-laws, unless the laws of the state or the provisions of the charter give the directors similar power. In New York, by statute provision, the directors of the company for the first year must be named in the charter and are given the right to adopt by-laws, subject always to any by-laws adopted by the stockholders. This enables a New York corporation, where desirable, to commence business without a preliminary stockholders' meeting. In New Jersey provision may be made in the charter giving the directors powers to make and alter by-laws, but by-laws so made may be altered or repealed by the stockholders.

By-laws should be carefully drawn, formally adopted and recorded accurately in the minute book. Due regard should be had in making by-laws to the nature of the company business, the size of the corporation, the rights of the minority and the relation of the officers and directors to the business. For instance, if all or nearly all of the stock were owned by a few men, who composed the board of directors, held all the offices, and devoted their entire time to the company business, the by-laws need be but few and simple; while, if the stockholders were numerous and widely scattered, if there were a large board of directors meeting but seldom, if the president, and possibly the remaining officers, were engaged in other businesses, the actual work of the corporation being conducted almost entirely by salaried agents and employees, the by-laws should be full, explicit and carefully adapted to the particular circumstances of the corporation.

In each state, many matters relating to corporate management have been provided for by statute. It is well to have the substance of all these laws embodied in the by-laws. The statute regulations are not thereby strengthened in any way, or made more binding on the company, but they are more accessible and are much less likely to be disregarded than if their observance depended solely upon the secretary's knowledge of the law. (See § § 11, 29.)

§ 35. Amendment of By-Laws.

Provision is usually made in the by-laws for their repeal or amendment. Unless otherwise provided by statute, charter or by-laws, they may always be amended by the vote of a majority of the stockholders at any regular meeting, or at any special meeting duly called for that purpose.

Under the New York law, directors have no power to alter, amend or repeal, any by-law passed by the stockholders. In New Jersey it would seem that the charter may, by express provision, confer such power upon the directors. This is done because in the very large corporations characteristic of New Jersey, where the stockholders are numerous and too widely scattered for convenient assembling, it is considered expedient to give the board of directors more extensive powers than the common law allows or than heretofore granted by statute.

This innovation of the New Jersey laws alters the whole former scheme of corporation management, under which the by-laws were expressly designed to be passed by the stockholders for the government, regulation and restraint of directors and officers. While the change may be necessary and even advantageous for some of the larger corporations of New Jersey, for the smaller corporations it is not a change to the advantage of the stockholders, and the provisions mentioned should be omitted from the charters of such corporations. (See §§ 73, 99.)

§ 36. Enforcement of By-Laws.

The most potent factor in securing the observance of by-laws is found in the legal liabilities and entanglements that may ensue from their violation. Corporate action taken in disregard of by-law requirements is frequently illegal and void. In such event it may be restrained or set aside by any stockholder or creditor who may choose to resort to the courts. Also directors and officers disregarding the by-laws may render themselves personally liable for damages.

Direct penalties for the violation of by-law provisions are unsatisfactory and very difficult of enforcement, and the considerations mentioned are generally relied upon to secure observance of the by-laws in all important matters. The smaller omissions and negligences on the part of directors and officials are usually passed over, or their recurrence prevented by the election of more reliable officials at the first convenient opportunity.

Sometimes, however, direct penalties in the shape of fines are imposed for violation of the by-laws, and, when reasonable, these penalties are usually upheld by the courts. In New Jersey the statutes expressly provide that fines not exceeding twenty dollars may be imposed for any breach of by-law provisions. Such penalties may be enforced by action at law, or by charging the amount against the offender and deducting it from any dividends or salary thereafter due him.

It should be noted that no stock corporation has the right to expel a stockholder, or deprive him under any circumstances of his rights of membership in the corporation. Such penalties, if imposed, could not be enforced. (See § 98.)

§ 37. Non-observance of By-Laws.

Every stockholder, and, in many cases, every creditor of a corporation has the right to demand that the business and procedure of the corporation shall be conducted according to the charter and by-laws of the company and the laws of the state. Hence any irregularity may lead to legal interference, and, in some cases, to the personal liability of the offending officer or director. For instance, one stockholder, not duly notified of a special meeting of the stockholders, may come in later and have the entire proceedings overturned. Or again, any director voting to declare a dividend greater than can be paid from the surplus profits of the corporation makes himself personally liable to the company for any loss occasioned thereby. Similarly, any other irregularity or failure to observe

statutory and by-law requirements may cause serious complications and personal responsibility.

On the other hand, where a corporation is prosperous and free from indebtedness, and when all its stockholders are satisfied and willing to expedite the transaction of business, such accurate and formal compliance with all the corporate requirements is not so essential. In such case, the formal regulations may, by common consent, be waived at convenience, and the corporation conducted with the same simplicity and informality as a partnership. In practice, many irregularities in corporation organization and procedure are passed over and legalized by the acquiescence or assent of all the parties concerned. Also, unless prompt action is taken by any stockholder who objects to an irregularity, such stockholder will be deemed to acquiesce, and will be estopped from subsequent interference.

§ 38. Classification of By-Laws.

By-laws should be so grouped that those relating to any matter may be readily found. A convenient classification, as follows, has been adopted in this work:

I.—Stock.
II.—Stockholders.
III.—Directors.
IV.—Officers.
V.—Dividends and Finance.
VI.—Sundry Provisions.

This arrangement has been followed in the by-laws given in the present volume, and also in the commentaries upon the subject matter of these by-laws.

The short set of by-laws given in Part IV. of the present work (Form 21) is intended for the use of smaller corporations, where simple regulations are sufficient. The extended set which follows these shorter by-laws (Form 22) has been selected and collated from the by-laws used by some of the best organized corporations in the Eastern States and with suitable modifications may be adapted to the needs of any modern business corporation.

§ 39. Record of By-Laws.

When by-laws have been adopted it is the duty of the secretary to have them recorded at length in the minute book. In addition, when it can be done without too much expense, or where the size or importance of the corporation justifies the expense, the charter and by-laws should be printed and each stockholder be provided with a copy. (See § 138.)

CHAPTER IV.

STOCK.

(BY-LAWS.)

§ 40. Introductory.

The by-laws of a corporation are the working rules under which it operates. Usually the by-laws embody a large proportion of the common and statutory law relating to corporations, as well as the specific regulations by which the particular corporation is controlled. Hence, any work treating of the management of corporations must of necessity treat the subject of by-laws very fully.

As a convenient method of treating the subject, this chapter and the five succeeding ones are devoted to the careful consideration of a complete set of by-laws arranged for the government of a New York corporation. (The same by-laws, with such slight changes as fit them for the purposes of a New Jersey corporation, are given in Form 22, Chapter XXI.) These by-laws are classified according to the plan given in Section 38, in the preceding chapter, and a chapter is devoted to each group and a section to each by-law. To the comment and explanation given in the text are added references to those other parts of the book where the same subject is considered in other connections, and to such forms in Part IV. as relate to the same matter. To obtain a full knowledge of any particular subject, these references should be consulted.

§ 41. Kinds of Stock.

Stock is variously distinguished as common, preferred, treasury, guaranteed and the like. Preferred and treasury

stock will be discussed under their respective heads in Sections 47 and 48 of this chapter.

Common Stock is the general or ordinary stock of a company, with neither special privileges nor restrictions. Unless preferred or other special stock is issued by the company, all of its stock is common stock.

Guaranteed Stock is stock of one corporation, the payment of dividends on which has been guaranteed by another corporation. It is an arrangement common among railroad companies. The term is also applied to preferred stock when the dividends are cumulative. (See § 47.)

Full Paid Stock is that the par value of which has been fully paid in to the company in cash or which has been issued at its par value in payment for property, without fraud and in good faith. The issuance of stock for property in this manner is permitted under the laws of New York, New Jersey and most other states. (See Forms 60, 61.) Certificates of full paid stock should bear the words "Full paid and non-assessable" plainly printed upon the face of the certificate. The holders of such stock would not be liable to assessments nor to creditors of the company in case of insolvency. (See § 43.)

Unissued Stock is in itself a nullity, and until issued represents nothing. It is not treasury stock, and is no more an asset of the company than an unissued promissory note is an asset of an individual or firm.

Issued and Outstanding Stock is that which has been bought, or subscribed for and the subscriptions accepted by the company, or which has been properly exchanged for property, labor, services or other values. Usually it is stock for which certificates have been issued and delivered to the stockholders, though the issue of certificates is not necessary to make the stock "issued and outstanding." The parties entitled to certificates are stockholders, with all the rights of stockholders, before they receive their certificates. The issue of certificates and the issue of stock are separate and distinct, and should not be confused.

For bookkeeping purposes, issued stock is regarded as a liability of the company, and the subscriptions, cash or property received therefor should be an equivalent asset. (See § 43).

Watered Stock is stock issued without payment or without full payment therefor, in cash or in property. Sometimes watered stock is issued as a stock dividend. If a stock were paying 12 per cent., as much more stock might be issued to the stockholders as a stock dividend. Each stockholder would then have twice as many shares, but his stock would be a 6 per cent. stock. In many states such issues of "fictitiously paid-up" stock are prohibited. Generally the term is applied to any stock for which the corporation has not received an equivalent in assets. Stock is said to be more or less watered, according to the amount of real value behind it.

§ 42. Subscriptions.

> "Subscriptions to the capital stock of the Company must be paid to the Treasurer at such times and places and in such instalments as the Board of Directors may by resolution require. If default be made in payment, such default shall work forfeiture of the stock by the method prescribed in the statutes." Art. I, § , By-laws.

The by-law quoted would only be used and only applies to those corporations whose capital is supplied by subscriptions to the capital stock, payable in cash, in such instalments and at such times as the terms of subscription may require. But a limited number of companies are so organized, most modern corporations being formed to take over an existing business, a mine, a patent or other property; and the entire stock being paid up at the time of organization by the assignment to the corporation of the business or property. In such case there could be no capital stock paid by subscribers in instalments, and the foregoing by-law would be omitted. (See Form 2.)

Also, as the entire matter of subscriptions is usually closed within a limited time after the organization of the company,

and is therefore a temporary matter, the procedure for collection could very properly be omitted from the by-laws and be provided for by a resolution.

If a subscriber to stock defaults on his first payment, his subscription would usually be canceled without formality and the matter ended. After payments have been made, the proceedings to forfeit such stock for default in payment of the balance due are set forth in the statutes at such length, and require such close adherence, that their inclusion in the by-laws is inexpedient.

If used, the above by-law would be Section 1, Article 1 of the By-laws, but it is so seldom employed that the section number mentioned is reserved for the by-law next quoted.

§ 43. Certificates of Stock.

> "Each stockholder of the Company whose stock has been paid for in full shall be entitled to a certificate or certificates, showing the amount of stock of the Company standing on the books in his name. Each certificate shall be numbered, bear the signature of the President and Treasurer and the seal of the Company, and be issued in numerical order from the stock certificate book. A full record of each certificate of stock, as issued, must be entered on the corresponding stub of the stock certificate book." Art. I, § 1, By-laws.

Stock certificates are usually bound together in a stock certificate book and numbered consecutively. (§ 147.) For the arrangement of certificate and stub see Forms 13 to 18. The stock certificate book is kept by the secretary, whose duty it is to prepare the certificates and affix the seal. In New Jersey the statutes require the signature of the president and treasurer to stock certificates. In most states the matter is discretionary, and it is often provided that the secretary shall sign certificates with the president.

Great care should be taken to avoid mistakes in issuing stock. The entries on the stub should be made before the certificate is separated. Both the name and the address of the

party in whose name a certificate is issued should appear on its stub. Whoever receives the certificate should receipt for same on the stub. As it is the duty of the secretary to keep a correct list of the stockholders of the company, he should never under any circumstances issue stock certificates with the space for name left blank to be filled in later.

Stock certificates should never be issued until the stock they represent has been paid for in full, and then they may properly be marked "full-paid and non-assessable." Should stock certificates be issued wrongly marked "full-paid," and sold to a *bona fide* purchaser, without knowledge on his part that said stock had not been paid in full, they would involve him in no liability either to the corporation or to creditors in case of its insolvency.

The certificate is not the stock, but only the evidence of its ownership. Neither is the possession of a certificate essential to the enjoyment of all the rights of a stockholder. A stockholder can vote and receive dividends, and hold office in a company before he receives his certificate of stock or after its loss or destruction. (See § 45.) A stockholder, who has paid in full for his stock, has, however, a right to a certificate, and the courts will enforce its issuance, if necessary. (See § 147; also Chap. XIX.)

§ 44. Transfers of Stock.

> "Transfers of stock shall be made upon the proper stock books of the Company, and must be accompanied by the surrender of the duly endorsed certificate or certificates representing the transferred stock. Surrendered certificates shall be canceled and attached to the corresponding stubs in the stock certificate book, and new certificates issued to the parties entitled thereto. The stock books shall be closed to transfers twenty days before general elections and twenty days before dividend days." Art. I, § 2, By-laws.

In transferring stock it is supposed that the party to whom it was issued appears in person, and executes an instrument

of transfer upon the corporation transfer book. (§ 148; also Form 145.) In practice, however, this is but rarely done, the person who transfers his stock merely signing a combined assignment and power of attorney in blank (usually printed upon the back of his certificate of stock, although it may be a separate paper) and delivering his certificate of stock to the purchaser. (See Form 17.) The transferee, if he wishes to make himself a stockholder of record, writes his own name in the blank assignment as assignee; and also duly enters therein the name of the secretary of the company, his own name, or the name of some other reliable person, as attorney to execute the transfer upon the books of the company. (See Form 18.) This attorney, so designated, executes the instrument of transfer upon the books of the company (See Form 145), and surrenders the old instrument for cancelation, the transferee thereupon becoming a stockholder of record, entitled to vote and receive dividends. A new certificate is then issued by the officials of the company in the name of the transferee and the transaction is complete. In New York, however, the original owner is not released from liability as a stockholder until the transfer of his stock is entered in the stock book as well. (See §§147, 148, 149; also Form 146.)

§ 45. Lost Certificates.

> "The Board of Directors may order a new certificate or certificates of stock to be issued in the place of any certificate or certificates of the Company alleged to have been lost or destroyed, but in every such case the owner of the lost certificate or certificates shall first cause to be given to the Company a bond in such sum, not less than the par value of such lost or destroyed certificate or certificates of stock, as said Board may direct, as indemnity against any loss or claim that the Company may incur by reason of such issuance of stock; but the Board of Directors may in its discretion refuse to issue such new certificates, save upon the order of some court having jurisdiction in such matter." Art. I, § 3, By-laws.

If a certificate of stock is lost or stolen, another may be issued in its place; but the officers of the company should not take this responsibility without express authorization from the board of directors. Should they do so and the missing certificate turn up in such a way that a loss was involved, they would be held responsible. It should be noted that, if for no other reason than the trouble involved in case of loss, stock certificates should always be carefully preserved. In case certificates are lost or stolen, the secretary of the company should be immediately notified and such other steps taken as may be necessary to prevent the negotiation of the missing certificates. This is particularly important where such certificates have been endorsed and held in blank. (See Form 17.)

Should a lost certificate be presented to the secretary for transfer before that official is notified of its loss, he might make the transfer without liability if the circumstances were such as to justify him in the belief that such transfer was regular and in good faith. After having been warned of the loss he could not make such transfer without personal liability. In case of any doubt, or any dispute as to ownership of a certificate, no transfer should be made until the true ownership has been definitely determined.

The officials of a corporation have no legal right to refuse recognition to any stockholder of record, or withhold dividends, or any other corporate right, on account of the loss of his certificate. If the books of the company show him to be a stockholder he is entitled to every right and privilege of a stockholder without regard to the whereabouts of his certificate. The certificate is merely a convenient, negotiable evidence of stock ownership, but *for all corporate purposes,* the books of the company are the final and decisive authority which must be recognized by the corporate officials.

When certificates are lost, the owner usually desires to have new certificates issued so that he may be in a position to sell or pledge, or otherwise use his stock. The by-law as given outlines the proper procedure. A sufficient bond of indemnity

is required, as it is always possible that the certificate may turn up in the hands of an innocent purchaser for value, who would have a case for damages against the corporation if they refused to recognize his rights. When the value of the missing certificate is considerable, it is best for the directors to refuse to issue a new certificate until the loser secures an order from some court of competent jurisdiction. This course relieves the directors from all responsibility in the matter. (See Form 150.)

§ 46. Stock and Transfer Books.

> "The books and records of the Company shall be kept at its office, No. 52 Broadway, in the City and State of New York, and the Stock Book shall be open during business hours for the inspection of any stockholder or judgment creditor of the Company." Art. I, § 4, By-laws.

This section is for the most part declarative of the statute law of New York. Failure to observe these requirements subjects both the corporation and the offending officer to heavy penalties. Corporations chartered under the laws of other states, but doing business in New York, are likewise compelled to keep a stock book open for inspection. In the case of such companies, the by-laws would require some slight modification. A New Jersey corporation would require a by-law drawn as in Art. I, Sec. 4 of the By-laws given in Form 22.

> (See §§ 146, 148, 149 and 150; also Forms 145, 146 and 147.)

§ 47. Preferred Stock.

> "The capital stock of this Company shall be One Hundred Thousand Dollars consisting of One Thousand Shares, each of the par value of One Hundred Dollars. Of these, Five Hundred Shares shall be preferred stock and Five Hundred Shares shall be common stock.
>
> "Said preferred stock shall receive from the net earnings of the Company a six per cent., annual, cumulative dividend before any dividends are paid upon the

common stock, but such stock shall not entitle the holders thereof to vote at the meetings of the stockholders of the Company." Art. I, § 5, By-laws.

The foregoing describes one of the simplest forms of preferred stock. There are many variations. It is possible for a company to have two or more classes of preferred stock, each drawing a different percentage, the dividend of one class to be paid before that of the other class or classes. Also, preferred stock is sometimes arranged to first draw its preferential dividend each year, then to participate with the common stock in any further dividends declared that year, or the common stock may draw a dividend equal to that of the preferred stock and then both stocks participate equally in any further dividends that may be declared that year.

In New York and New Jersey, preferred stock must be provided for in the charter, or thereafter by the vote of two-thirds of the stockholders of record, which vote must be evidenced to the office of the Secretary of State by a duly executed certificate. The provisions as to preferred stock are included in the by-laws merely as a matter of convenient reference and to make their record complete. The issuance of preferred stock is not authorized thereby.

Preferred stock can only claim dividends from net profits. If there are no profits, its holders have no claim against the corporation. If it is cumulative preferred stock, all arrearages for past years must be paid in full before any profits can be applied to the payment of dividends upon common stock. It is then sometimes called "guaranteed stock." Sometimes it is provided that preferred stock may be redeemed at a fixed price after a certain term of years. Sometimes it is provided that the preferred stock is to have preference in the distribution of the assets upon the dissolution of the corporation. This is a statutory provision in New Jersey.

Where money can be raised by the sale of preferred stock, it is preferable to a bond issue, as the failure to pay dividends gives its holders no cause of action against the company. In

other words, preferred stock is not a debt of the company and a bond issue is. Unless expressly prohibited from voting, preferred stock would have the same right to vote as common stock.

There is no limit to the forms in which preferred stock may be issued. In all cases, the nature of the stock and its preferences, privileges and limitations should be plainly printed upon the face of the certificates. This prevents any misrepresentation or misunderstanding regarding its character. (See Forms 15, 16.)

§ 48. Treasury Stock.

> "All issued and outstanding stock of the Company that may be donated to, or purchased by, the Company shall be treasury stock and shall be held subject to disposal by action of the Board of Directors. Such stock shall neither vote nor participate in dividends while held by the Company." Art. I, § 6, By-laws.

Unissued stock is sometimes wrongly called treasury stock. The by-law as given defines treasury stock correctly. It is stock that has been issued and has come back into possession of the company. It is an asset of the company and may be sold by the board, as any other property would be sold. If it has been "full-paid," it retains that character, and may be sold below par, without involving the purchaser in any possible liability on that account. In this respect it differs from stock issued in the first place for less than its par value, which may later involve its purchaser in further liabilities should the corporation become insolvent.

It is usual when a company is formed to develop some new enterprise, to issue all or a part of its stock for property, thereby making it full-paid; and then from this full-paid stock to have a certain amount donated to the company for the express purpose of selling it below par in order to raise a working capital.

While the company holds treasury stock, it is inert and can neither be voted nor participate in dividends. It is, however,

" issued and outstanding stock," and as such subject to taxation under the New Jersey statutes.

§ 49. General.

The stock of other corporations may be held by a New York corporation if a provision granting such power has been inserted in its certificate of incorporation. In New Jersey, corporations may hold the stock and bonds of other corporations without any such special provision. In other states, the statutes and decisions should be consulted, as at common law a corporation cannot hold stock in another corporation.

It should be emphasized that corporations are the creatures of the law and the provisions governing them differ in every state, hence every corporation should provide its officers with a copy of the corporation laws of the state of incorporation, and if such corporation is doing business and has an office in any other state, its laws should likewise be studied.

In the state where it is incorporated, a corporation is classed as a " domestic corporation." If it does business in another state, it will be classed as a " foreign corporation." In many states there are special laws for the regulation of " foreign corporations," and these laws should be known by the officials of any such corporations.

CHAPTER V.

STOCKHOLDERS.

(BY-LAWS.)

§ 50. Annual Meetings.

> "The regular annual meetings of the stockholders shall be held in the office of the Company, in the City and State of New York, at 10 o'clock A. M. on the second Monday of January in each year. At this meeting the directors for the ensuing year shall be elected, the officers of the Company shall present their annual reports, and the Secretary shall have on file for inspection and reference an alphabetical list of the stockholders, giving the amount of stock held by each as shown by the stock books of the Company twenty days before the date of such annual meeting." Art. II, § 1, By-laws.

Annual meetings and corporate elections, to be legal, must usually be held within the state of incorporation. The principal office of the company in the state is the customary and most appropriate place of meeting. At this annual meeting any business may be transacted without previous notice, but where matters of importance are to be considered it is well that the stockholders be notified in advance. If the by-laws are to be amended, it should be done at this meeting. If any sweeping change of business or policy is to be made, it should be authorized by resolution of the stockholders at the annual meeting unless a special meeting be called for the purpose at some other time. Generally the principal business of the annual meeting is the election of directors. The list of stockholders provided for

in the foregoing by-law is not required by the New York statutes, but is included because it is the most convenient form in which to bring this necessary information before the meeting. (See Chapter X; also Form 98.)

§ 51. Special Meetings.

> "Special Meetings of the stockholders may be held at any time in the office of the Company, pursuant to a resolution of the Board of Directors, or by a call signed by stockholders holding a majority of the voting stock of the Company. Calls for special meetings shall specify the time, place and object or objects thereof, and no other business than that specified in the call shall be considered at any such meeting." Art. II, § 2, By-laws.

It is essential that the rules relating to special meetings be carefully observed. The call should recite the three essentials of time, place and objects. These every stockholder has a right to know; and the omission of any one might invalidate the entire action of the meeting. *No business except that which has been specified in the call and notice can be legally transacted at a special meeting.* To end a call and notice, as is frequently done, with some general phrase, such as "and all other matters that may come before such meeting," does not add to the scope or force of the notice in any way, and does not in itself legally authorize anything.

Where a company has but few stockholders, much time and trouble may be saved by uniting the call for a special meeting with a waiver of the formalities of notice. Such an instrument signed by all of the stockholders enables the corporation to hold a meeting without the delay otherwise unavoidable. (See § 52.) No stockholders signing such waiver of the formalities can afterward complain of want of notice. Especially is this method used in the meetings for organization purposes, when the stockholders are limited in number and are usually accessible. (See Chap. XI; also Forms 74, 75, 77, 80, 81, 82, 95, 96.)

§ 52. Notice of Meetings.

> "A written or printed notice of every regular or special meeting of the stockholders, stating the time and place, and in case of special meetings, the objects thereof, shall be prepared and mailed by the Secretary, postage prepaid, to the last known Post Office address of each stockholder, at least ten days before the date of any such meeting.
>
> "If an election of directors is to be held at any such meeting, the Secretary shall, in addition to the prescribed notice by mail, give notice of such meeting and election by publication thereof at least once a week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held." Art. II, § 3, By-laws.

Every stockholder has a right to know when and where meetings in which he is interested are to be held, and to have sufficient notice of such meeting to enable him to conveniently attend. The clause in the above by-law, relative to notice by publication, is in accordance with the New York statutes. This is, however, a most uncertain method of notification, and by-laws should always provide that each stockholder shall be notified by mail. This latter is the most effective method of notification that has yet been devised. (See §§ 102, 105, 113, 116; also Forms 85, 86, 87, 88.)

§ 53. Voting.

> "Only stockholders of record shall be entitled to vote at the regular and special meetings of stockholders. At such meetings each stockholder shall be entitled to one vote for each share of stock held in his name." Art. II, § 4, By-laws.

This by-law conforms to the general law on the subject. If a non-voting preferred stock were to be issued, it would be necessary to alter the above by-law so as to limit the voting right to holders of common stock. (See § 54, "Elections" and "Cumulative Voting.")

In New York, where stock has been pledged and has been transferred on the books of the company to the pledgee, the owner has the right to demand and receive a proxy from the pledgee, upon paying the necessary expenses. If he neglects to do this the pledgee will have the right to vote on such stock. In New Jersey, if it appears on the transfer that stock has only been transferred as a pledge, the owner retains the right to vote thereupon. The general rule is that a pledgee, to whose name stock has been transferred on the books of the company, has the right to vote such stock.

§ 54. Election of Directors.

> "At each annual meeting of the stockholders of the Company, nine directors shall be elected, who shall serve until the election and acceptance of their duly qualified successors. All elections for directors shall be by ballot, and the candidates, to the number to be elected, receiving the highest number of votes, shall be declared elected.
>
> "If for any reason directors are not elected at the regular annual meeting of stockholders, a special meeting shall be called for the purpose within thirty days thereafter, at which directors shall be elected in all respects as at the annual meeting.
>
> "Two inspectors of election shall be appointed by the President to conduct the election of directors to serve for the ensuing year. These inspectors shall be sworn to the faithful discharge of their duty, and shall then take charge of the election (but the inspectors for the first election shall be appointed by the Board of Directors named in the charter).
>
> "In all elections for directors, each stockholder of record shall be entitled to cast, for each share of stock held by him, as many votes as there are directors to be elected, and he may cast the whole number of such votes for one candidate, or distribute them among one or more candidates, as he may prefer." Art. II, § 5, By-laws.

Under the provisions of the above by-law, which is merely declaratory of the common law, a director, once elected, holds his office until the election and acceptance of his duly qualified

successor. Were it otherwise, at the end of the year the corporation would, in the event of any failure in the regular election, be left without a managing board. A director-elect's acceptance of the position to which he has been elected is usually indicated by a verbal assent or by attendance at the next board meeting, though greater formality is sometimes required.

Usually the only necessary qualification for the office of director is the holding of stock in the company. In New York, it may be provided in the charter or by-laws that directors need not be stockholders. In New Jersey, the requirement is absolute, and directors must hold stock when they are elected. In most states it is sufficient that directors secure stock before they assume to act.

The annual election of directors is in the larger corporations the most important event in the corporate calendar, deciding the management, and, generally, the policy of the company for the ensuing year. In the smaller corporations the matter is not usually of so much importance, and frequently a small or " close " corporation will omit the election of directors entirely. The only effect of this omission is, under the by-law provision mentioned, which is also the common law, to continue the old board for another year. There is no legal objection to this practice if all the stockholders acquiesce.

Inspectors of election are required in New York and New Jersey. The clause in brackets in the by-law given is intended to meet the New York requirement that the directors shall appoint the first inspectors, and could be omitted in other states. (See §§ 102, 108; also Chap. XXIX, and Forms 92, 93.)

Cumulative Voting.—Under the laws of New York and New Jersey cumulative voting, if desired, must be provided for in the charter of the company. The provision should then be repeated as above in the by-laws. The right only applies to voting for the election of directors. It allows each stockholder to cast as many votes as shall equal the number of his shares of stock, multiplied by the number of directors to be elected, and to cast all of such votes for a single director or to

distribute them among the number to be voted for, or any two or more of them. The result is to insure the minority some representation upon the board. Under the usual plan of voting, the majority would elect all the board; and the minority unless by favor of the majority would be debarred absolutely from any part in the deliberations of the board and the management of the company. With cumulative voting, while it would under no circumstances be possible for the minority stockholders to control, they may always be represented upon the board, and thus be able to keep in touch with the proceedings of the board and the management of the company. This is often of very great advantage, as, in the event of any threatened abuse of power by the majority, the minority, knowing of it in advance, would have opportunity to save their rights by legal action. In Pennsylvania and some other states this privilege of cumulative voting is guaranteed by the State Constitution.

If the directors are to be classified, the preceding section of the by-laws should be modified to agree with the by-law suggested in Section 66 in the next chapter. As directors are not named in the charters of New Jersey corporations, it would be necessary, for that state, to word this section of the by-laws as in Form 22, Art. II, Sec. 5. (See § 108; also Forms 92, 93.)

§ 55. Quorum.

> "A majority of the outstanding stock, exclusive of treasury stock, shall be necessary to constitute a quorum at meetings of stockholders. When a quorum is present at any meeting, a majority of the stock represented thereat shall decide any question brought before such meeting. In the absence of a quorum, those present may adjourn the meeting from day to day, but until a quorum is secured may transact no business." Art. II, § 6, By-laws.

The by-laws may fix the quorum at less than a majority of the outstanding stock, and any quorum so fixed may legally transact business. Such a provision, however, is not entirely safe; and the best practice requires a majority of all the stock to

constitute a quorum. Even then a majority of the quorum decides any question acted upon, so that if only a bare majority of the stock were present at any meeting it would be quite possible for matters of the greatest importance to be determined by little more than one-fourth of the outstanding stock. This is certainly as far as it is safe to go. If a quorum is not present at any meeting, the stockholders present may, if desirable, adjourn over a day or two, or as long as they see fit, until a quorum is secured and the meeting held. This sometimes saves calling another meeting. Such an adjourned meeting is, from a legal standpoint, merely a continuation of the original meeting; and any business that might have been transacted at that meeting may be acted upon at the adjourned meeting. (See last part of § 104.)

It is to be noted that by a peculiar provision of the New York statutes an election of directors may be held without a quorum. No matter how small the number of stockholders meeting at the duly appointed time and place, they have power to elect directors.

§ 56. Proxies.

> "Any stockholder entitled to vote may be represented at any regular or special meeting of stockholders by a duly executed proxy. Proxies shall be in writing and properly signed, but shall require no other attestation. No proxy shall be recognized unless executed within eleven months of the date of the meeting at which it is presented." Art. II, § 7, By-laws.

Proxies play a very important part in modern corporate procedure. Important meetings are held, and actions taken on matters of the greatest moment by a few individuals (often not even stockholders) holding the proxies of the stockholders. It is common when sending out notices of stockholders' meetings to include blank proxy forms, with the request that any stockholder unable to be present fill out the proxy and return the same, in order that his stock may be represented at the meeting.

A proxy is in itself simply a power of attorney authorizing some specified person to act at corporate meetings for the stockholder by whom the proxy is signed. In New York, no proxy is valid after eleven months, unless the person making it has specified a longer time. In New Jersey, three years is the legal limit. In any case a proxy can always be revoked at any time by the maker. The proviso in the by-laws that no proxy is to be recognized unless executed within eleven months, or other limited period, necessitates the execution of a fresh proxy for every annual meeting. Under this provision the proxies really represent the stockholders, and are not simply out-of-date authorizations that the maker has forgotten to revoke. Proxies should be filed with the secretary at or before roll call and should be preserved by him. (See § 104; also Forms 23 to 30.)

§ 57. Officers of Meetings.

> "The President, if present, shall preside at all meetings of the stockholders. In his absence, the next officer in due order who may be present, shall preside. For the purposes of these by-laws, the due order of officers shall be as follows:
>
> "President, Vice-President and Treasurer.
>
> "The Secretary of the Company shall keep a faithful record of the proceedings of all stockholders' meetings." Art. II, § 8, By-laws.

This section merely provides against possible contingencies that may occur, and cause waste of time and uncertainty of action for lack of a clear provision on the subject. If the secretary were the only officer present, he might very properly request some one else to take the chair, rather than to take it himself and appoint some one else to perform his duties. He could not act as president and secretary at the same time. (See §§ 103, 114.) In the absence of all the officers from any meeting, the stockholders present would appoint temporary officers for that meeting.

It should be noted that the regular officers of the company do not take charge of the stockholders' meetings *ex officio*

or as a matter of course, but do so only when expressly directed thereto by the charter or by-laws. If no such provision exists, the stockholders would, at each meeting, elect or appoint the officers of such meeting, who might or might not be the regular officers of the company, at the discretion of the stockholders.

It is customary, however, where officers of the meeting are elected or appointed, to appoint the secretary of the company, secretary of the meeting as well, as to appoint one unfamiliar with the records and general condition of the company might cause confusion and delay.

§ 58. Order of Business.

"The order of business at the annual meeting, and, so far as practicable, at all other meetings of the stockholders, shall be as follows:

1. Calling of Roll.
2. Proof of due Notice of Meeting.
3. Reading and disposal of any unapproved Minutes.
4. Annual Reports of Officers and Committees.
5. Election of Directors.
6. Unfinished Business.
7. New Business.
8. Adjournment." Art. II, § 9, By-laws.

The order of business is included in the by-laws to insure the systematic and orderly conduct of meetings, and of the business of such meetings. Its provisions are not, however, mandatory as are most of the by-law regulations, and, if desirable, any detail may be omitted or taken up out of its order by due motion, or by consent of the stockholders present.

The secretary may prepare outline minutes for stockholders' meetings in accordance with the order of business given. (See Form 66.) A copy of the order of business should be furnished the president or chairman of the meeting in advance by the secretary. (For discussion and application of the provisions of the order of business, see Chapters X and XI, and more particularly §§ 102, 103, 114, in those chapters.)

§ 59. Rights of Stockholders.

The individual rights of holders of common stock are:

1. To be notified of and to participate in all stockholders' meetings, in person or by proxy, and for each share of stock held to cast one vote at any election of directors, or upon any question that may come before such meetings.
2. To share, in proportion to the amount of stock owned, in all dividends declared on the common stock.
3. In event of the dissolution of the corporation, to share in like proportion in any assets remaining, after all the corporate debts and obligations have been paid.
4. To inspect the corporate books and accounts.

It should be said, however, that this last right has been so much impaired by recent legislation and decisions as to render it little more than nominal, except as to the book or books containing data relating to the stockholders of the company.

Holders of preferred stock have the same rights as the holders of common stock, except so far as such rights have been extended, or restricted, by the conditions under which the stock was issued.

§ 60. Powers of Stockholders.

The individual stockholder, no matter how large his holdings, has, outside of stockholders' meetings, no power to interfere in the lawful management of the company or its business. If any illegal or wrongful action is taken, or about to be taken, he can appeal to the courts; or if he can induce a majority of his fellow stockholders to act with him, a stockholders' meeting may be called, and the by-laws amended, or such other action taken as may be necessary to prevent any threatened injurious action. In some cases wrongs already done may be remedied in this way.

The collective powers of the stockholders apply to but few matters and may be summarized as follows:

1. Adoption or amendment of by-laws.
2. Election of directors.
3. Amendment of the charter.
4. Dissolution of the company.
5. Sale of the entire assets.
6. The exercise of any specially conferred charter powers.

In matters like the amendment of the charter or the dissolution of the company, the power of stockholders is usually limited or regulated by statute; and in most cases two-thirds of all the stockholders must agree upon such matters, before they may be done.

§ 61. Liabilities of Stockholders.

Any stockholder is liable to the company, or to its creditors, for any instalments remaining unpaid upon stock subscribed for by him. He may also be liable to the creditors on any stock held by him that is not full-paid. In such case the amount of his liability would be the difference between the price received by the company for such stock and its par value. Where property has been taken for stock, if there has been any unfair dealing, or such over-valuation of the property as to be fraudulent, the stock would be held to be but partly paid, and in case of insolvency, there might be a liability for any amount held to be yet due.

Should dividends be declared from the capital of the company, stockholders would be liable to creditors for any amount so received by them. There is, however, no liability for dividends declared from profits, even though the company afterward becomes insolvent.

In New York, stockholders are liable personally for all debts due to any laborers, servants or employees, for services rendered to the corporation.

In some few states, by special statutes, holders of full-paid stock are liable, in case of insolvency of the company, to pay an additional amount equal to the face value of their stock.

§ 62. General.

Practically, the stockholder who owns but a few shares in a corporation cannot defend his limited rights without greater expense than they are worth. If the majority in interest are incapable or unscrupulous, there is neither magic in the corporate system, nor force in corporate laws, to make safe the rights of small stockholders. In all small corporate investments more reliance is always to be placed on the character of the management than on the possible enforcement of abstract legal rights. The character and ability of those in control is as important in corporate enterprise as in any other form of business venture.

CHAPTER VI.

DIRECTORS.

(BY-LAWS.)

§ 63. Number and Authority.

> "A Board of nine directors shall be elected, which shall have entire charge of the property, interests, business and transactions of the Company, with full power and authority to manage and conduct the same." Art. III, § 1, By-laws.

The number of directors is frequently fixed by statute within more or less definite limits. In New York and New Jersey there is no maximum limit, but the board must consist of at least three members.

For the ordinary business corporation, a small board of directors is most convenient, and, usually, most effective. A large board is hard to assemble, requires much time for deliberation and decision, and its members are not likely to feel the same personal responsibility for the proper management and the success of the company that obtains in a smaller managing body. This usually ends in either giving undue authority to the officers, or in the creation of an executive committee of limited numbers, on which devolves the real management of the corporation.

The authority of the board as set forth in the above by-law is merely a statement of their actual legal power. Under the common or statutory law they exercise the active, controlling power in all corporate business. As expressed by an eminent

corporation authority, " In all cases, the board of directors and not the stockholders, nor the president, secretary, treasurer or other agent, is the original and supreme power in the corporation to make corporate contracts." The stockholders can neither force the directors to act nor restrain them from acting, unless the neglect in the one case, or the act in the other, is so glaringly unjust or injurious to the interests of the stockholders as to warrant an appeal to the courts. Speaking generally, the stockholders' only recourse in case of dissatisfaction with the board is to wait until the next annual meeting and elect a new and more amenable board.

Unless restricted by statute, charter or by-laws, the directors have full power on behalf of the corporation to borrow money, contract debt, issue bonds and mortgage the property of the company. Directors cannot, however, as a rule, make by-laws, unless some power in this direction has been given them by express provision of statute, charter or by-laws. (See §§ 34, 35, 73, 99.)

It should be noted that the directors are controlled by and are amenable to the charter and by-laws, and any provisions incorporated therein as to the directors' power of contracting debt, selling company property, etc., if reasonable, prevail, and the directors, should they not observe or violate such provisions, would be legally liable for any resulting damages.

The directors can only act collectively and in a regular or duly called meeting. A single director, unless he holds some other office in the company as well, has no power or authority of himself in corporate matters. Neither is the separate assent of the directors to a measure of any legal force, though action is very frequently decided upon in this way and then formally ratified at the next meeting of the board. Officers carrying out any such informally authorized measures do so at their own risk, as, should the board for any reason fail later to ratify the same, the officers would have acted without authority and would be legally liable for any resulting loss or damage to the company.

The board of directors is a deliberative body only. It does

not carry out its own enactments or measures directly, but authorizes or instructs the officers or agents of the corporation to do what is to be done. (See Forms 28, 36, 38; also Chapter XL.)

§ 64. Qualifications.

> " No person shall be elected, nor shall be competent to act as director of this Company, unless he is the holder of record of at least one share of its stock. At least one of the directors of the Company must be resident in the State of New York." Art. III, § 2, By-laws.

The statutes of both New York and New Jersey, and of many other states as well, provide that directors of a corporation must each own at least one share of its stock, and that there must be at least one resident director. In New York, if so provided in the charter or by-laws, the statutory provision requiring directors to own stock may be waived. Where the statute is complied with, persons desired as directors are often qualified by giving them one or more shares of stock. Where the donation is not intended to be permanent, the certificate is made out in such person's name, he is entered on the stock books as a stockholder of record, and then the certificate is properly endorsed in blank by him and handed back to the original owner. This latter party does not have such certificate transferred on the books of the company at once, but holds it assigned in blank. So long as the certificate is so held, the party to whom it was made out is technically a stockholder and is therefore qualified to act as a director. Should, however, the real owner of the certificate surrender it and have a new certificate issued in his own name, the " dummy " director would be no longer qualified and would cease to be either a stockholder or a director.

Sometimes it is an advantage to a corporation to provide that each director must own a considerable number of its shares. This renders it more difficult to fill the board with " dummy " directors. If, when statutory or by-law provisions require a

director to be a stockholder, any director disposes of his stock, he thereby vacates his office. (See § 54.)

§ 65. Vacancies.

> "Any vacancy occurring in the Board of Directors may be filled for the unexpired term by a majority vote of the remaining members.
>
> "In event of the membership of the Board falling below the number necessary for a quorum, a special meeting of the stockholders shall be called and such number of directors elected thereat as may be necessary to restore the membership of the Board to its full number." Art. III, § 3, By-laws.

A board of directors may legally continue to act, although there are vacancies, provided enough remain to make up a quorum of the whole number. It is safer, however, to fill vacancies as they occur. Otherwise the membership of the board might be reduced below the number necessary to constitute a quorum, and the remaining members would be unable to hold a legal meeting and could not legally fill the vacancies so as to rehabilitate the board. In such event a special meeting of stockholders would be requisite to elect the needed directors.

Usually directors cannot be removed, either by the board of directors, or by the stockholders, unless such power is provided by the certificate of incorporation. In New York, directors may be removed for misconduct by an action at law, instituted by the Attorney General, but this is seldom done.

§ 66. Classification.

> ("At the first election of directors, one-third of the entire Board shall be elected to serve until the next annual election, one-third to serve until the second annual election thereafter, and one-third to serve until the third annual election thereafter. At each annual election successors shall be elected to the directors whose terms expire at that time, and the directors so elected shall serve for the term of three years and until their successors are duly elected.")

This section is used when it is desired to classify the board of directors. It provides for three classes of directors. A greater number would seldom be desired. The object of such classification is to prevent any sudden change in the policy and management of the company, as, under this plan, it would take three years before a complete change could be made in the board. The arrangement is not usual in the smaller corporations. In New Jersey, classification of directors would have to be provided for in the certificate of incorporation.

Should any extensive change take place in the ownership of a corporation having classified directors, rendering a considerable change in the directory desirable, it might be provided for by the resignation of enough of the old directors to make places for the proper representation of the new stockholders upon the board.

Unless classification of directors is desired, this section should not be used. If the section is inserted, a corresponding change should be made in Art. II, Sec. 5 (§ 54), so that provision shall be made for the annual election of but three directors.

If the above section is used it will come into the set of by-laws as Section 3 of Article III, and the numbering of the sections which follow must be changed to correspond.

§ 67. Regular Meetings.

> "The regular meetings of the Board of Directors shall be held in the office of the Company, in the City of New York, at three o'clock P. M., on the first Monday in each month." Art. III, § 4, By-laws.

The regular meetings of the board of directors should be held at such intervals as the interests of the business demand. How often, depends on the circumstances of the particular corporation. Too frequent meetings are not desirable, as special meetings may be called at any time should an emergency arise. The regular meetings should be faithfully attended. It is the duty of the directors to attend these meetings, and if they fail

to do so it is liable to cause like slackness on the part of the officers and a general demoralization in the affairs of the company. In a small corporation, with but a few directors, who are themselves actively engaged in the business, it may be best to have each year but one regular meeting, preferably in January. Other business may be transacted informally, or by calling special meetings when the occasion arises. (See Chap. XII; also Form 99.)

As a general rule directors must meet in the state in which the corporation has its principal office. In New Jersey it is provided by statute that directors may meet outside the state, when the charter or by-laws permit.

§ 68. Special Meetings.

> "Special Meetings of the Board of Directors may be held at any time, in the office of the Company, in the City of New York, on the written call of the President or of any three members of the Board.
>
> "Special meetings may be held at any time and at any place within the State and without notice, by unanimous consent of the Board." Art. III, § 5, By-laws.

It is most desirable that all matters relating to meetings of the board should be plainly set forth in the by-laws. In a small corporation much of the board business is likely to be transacted at special meetings, and the manner in which such meetings are called should be clearly understood and closely followed. The last paragraph provides the most convenient method of calling special meetings, as, if all of the members sign the call (See Form No. 78), no other notice is required, and no dispute about the formalities can arise later. The call for the meeting must specify the business that is to be considered thereat, and, ordinarily, no other business can be transacted at such special meeting. If, however, all of the directors are present at a special meeting and agree thereto, any business, whether specified or not, may be legally transacted. (See Chap. XIII; also Form 78.)

§ 69. Notice of Meetings.

> "The Secretary shall notify each member of the Board of all regular or special meetings, by mailing to each member's last known address, postage prepaid, at least five days before any such meeting, a written or printed notice thereof, giving the time, place, and in the case of special meetings, the objects thereof; and no other business shall be considered at any such meeting than shall have been so notified to the members." Art. III, § 6, By-laws.

No part of a secretary's duties is more important than the giving of due notice of all corporate meetings. The time and method of doing this should be explicitly set forth in the by-laws and be carried out to the letter. If, where notice is required by the by-laws, one director is not notified of the meeting, he has the right to set aside its entire action.

Directors should be notified of regular meetings as well as of special meetings. This requirement is, however, quite frequently omitted from the by-laws on the presumption that members of the board know and will keep in mind the dates of regular meetings. As a matter of fact they do not, and it is better that they should be notified of regular meetings with the same formality as for special meetings. The secretary should have present at each meeting a copy of the notice sent out for that meeting, and be prepared to state, or certify, if required, that he has sent copies to each member, in accordance with the by-law provisions. (See §§ 123, 132; also Forms 89, 90.)

§ 70. Quorum.

> "A majority of the Board of Directors shall constitute a quorum, and a majority vote of the members in attendance at any Board meeting shall, in the presence of a quorum, decide its action. A minority of the Board present at any regular or special meeting may, in the absence of a quorum, adjourn to a later date, but may not transact any business until a quorum has been secured." Art. III, § 7, By-laws.

A majority of the board, in this connection, means a majority of the whole board, not of any reduced number, caused by vacancies or removals. Directors cannot delegate their authority nor appear by proxy at meetings, but must be personally present in order to act thereat.

§ 71. Election of Officers.

> "At the first meeting of the Board of Directors after the election of directors each year, a President, Vice-President, Secretary, Treasurer, General Manager and Counsel, shall be elected to serve for the ensuing year and until the election of their respective successors. Election shall be by ballot, and a majority of the votes cast shall be necessary to elect. If not detrimental to the business or operations of the Company, any two offices may be conferred upon one person. The directors shall fix the compensation of officers, subject to the limitations of the Charter and the By-laws. Any vacancies that occur may be filled by the Board for the unexpired term. The Board shall have the right to remove any officer at pleasure." Art. III, § 8, By-laws.

In small corporations, two officials are often all that are needed—a president and a treasurer, who also acts as secretary.

The compensation of officers should always be fixed at the time of election. If no salaries are to be paid, the matter should be distinctly understood; or if salaries are to begin at some future date, or on some future contingency, such as the payment of dividends, that also should be definitely arranged. The subject should not be left unsettled, as is frequently the case.

The board would not have power to remove officers at pleasure during their term unless such right was expressly given by the by-laws, charter or laws of the state. In New York the statutes give the directors this right to remove any officer at pleasure. (See § 82.)

In the event of no election being held, the old officers hold over until their respective successors are duly elected.

§ 72. Compensation of Directors.

> "Each director shall receive the sum of five dollars as compensation for his attendance at any regular or special meeting of the Board of Directors, and shall receive no other salary or compensation for his services as a director of the Company." Art. III, § 9, By-laws.

Unless otherwise provided in the by-laws, directors, as such, are entitled to no compensation for their services. The foregoing section provides a certain sum to be paid them for attendance upon meetings, expressly denying any other remuneration. In all the larger corporations it is considered advisable to provide a small payment, usually ranging from five to ten dollars for attendance at meetings, in order to secure the presence of the directors. In a small company, where all the directors are personally interested in the business, there is not the same difficulty in securing their attendance, and the honorarium is usually omitted.

§ 73. Power to Pass By-Laws.

> "The Board of Directors shall have no power to amend, alter or repeal the by-laws, but may pass such additional by-laws in conformity therewith as may be necessary or desirable to facilitate the business of the Company." Art. III, § 10, By-laws.

This section is in accord with the New York law. In New Jersey the directors have no power to pass or amend by-laws unless given by special provision in the charter of the company. When this is the case, the power given the directors by such special provision is usually much more extensive than that of the above by-law; allowing them to repeal and amend by-laws which have been passed by the stockholders. This practically removes all by-law restrictions on the directors and gives the majority a power which may at times be most dan-

gerous to the minority interests. If by-laws are compiled with due care at first, there is seldom any necessity for alteration by the directors, and in most cases such power should be withheld from the board.

In a majority of the states, the directors have no power to change in any way the by-laws, unless such authority is expressly given to them by some such by-law or charter provision as set out above. (See §§ 33, 34, 35, 99.)

§ 74. Executive Committee.

> "The President, Vice-president and Treasurer shall together constitute an Executive Committee, which shall be a part of the permanent executive organization of the Company, and shall, in the interim between meetings of the Board of Directors, exercise all the powers of that body in accordance with the general policy of the Company and the directions of the Board.
>
> "Meetings of the Executive Committee shall be held on call of the President, or of any two members of the Committee. All of the members of the Committee must be duly notified of meetings, and a majority of the members shall constitute a quorum. The Executive Committee shall keep due record of all meetings and actions of the Committee, and such records shall at all times be open to the inspection of any director." Art. III, § 11, By-laws.

Where the board of directors is necessarily large and the business of the corporation is extensive, it is often advantageous to delegate some of the powers of the board to an executive committee. How much power should be thus delegated is to be determined by the conditions and the nature of the company's business. The by-law as given is conservative, and limits the action and power of the committee within reasonable bounds. Under its provisions the executive committee could not bind the company in any unusual, important or doubtful matter. In all such cases the board must be assembled to discuss and finally decide. The object of having an

executive committee is merely to save calling the whole board together for matters of ordinary business.

The arrangement is, however, often abused, the meetings of the board being neglected and the executive committee left to attend to all business. In this way a few men will practically manage the entire affairs of an extensive corporation. The executive committee is sometimes made use of designedly to eliminate the minority interests from a knowledge of and participation in the affairs of the company.

In a small corporation, with a compact, easily assembled board, the executive committee would be an unnecessary complication. It is of importance only where the board is so large as to be unwieldy, or when for other reasons it is not expedient to have frequent board meetings. Under such circumstances a finance committee is also frequently added, with extensive powers in financial matters.

§ 75. Corporation Offices.

> "In addition to the principal office of the Company in the State of New York, other offices for the transaction of its business shall be maintained at such other places, in or outside of said State, as may be determined upon by the Board of Directors." Art. III, § 12, By-laws.

It is so common at the present time for a corporation to have business offices outside the state of its incorporation that it is proper to provide for such offices in the by-laws. In many cases it might be better for the by-laws to specify exactly the place or places where such offices should be kept. In New Jersey the provision in regard to offices outside the home state is always embodied in the certificate of incorporation.

§ 76. Order of Business.

> "The regular order of business at meetings of the Board of Directors shall be as follows:
>
> 1. Reading and disposal of any unapproved Minutes.
> 2. Reports of Officers and Committees.

3. Unfinished Business.
4. New Business.
5. Adjournment. Art. III, § 13, By-laws.

This is the usual arrangement of the order of business, and should be followed as far as practical at both regular and special meetings of the board. It may be varied at any meeting to suit special conditions.

The secretary should provide the president with a copy of the order of business before the meeting opens. (See Chaps. XII, XIII.)

§ 77. Liabilities of Directors under New York Law.

Directors are, by statute, personally liable in New York as follows:

1. For declaring dividends, except from surplus profits, or for dividing, withdrawing or paying out any part of the capital, except as authorized by law.
2. For making a loan of corporation money to any stockholder, or for discounting from corporation funds any note or evidence of debt for any stockholder, or for receiving the same for any installment due on stock.
3. For making any certificate, report or public notice that is false in any material representation.
4. For making illegal transfers of property to officers or stockholders when the company is insolvent or threatened with insolvency.
5. In case of dissolution, as trustees, for all corporation property that may come into their hands.

In most of the above cases the directors offending would be liable to a criminal prosecution as well as a civil action. Any director dissenting from the acts of the majority may, by proper procedure, relieve himself from responsibility. He must, however, have his dissent or protest recorded on the minutes, or, if this is refused, he must without delay publish such protest.

§ 78. Liabilities of Directors under New Jersey Law.

Under the New Jersey statutes, directors make themselves personally responsible for the debts of the company under the following circumstances:

1. If they loan the company's funds to stockholders.
2. If they declare dividends except from net profits.
3. If they issue false certificates or notices.
4. If they fail to give the statutory notice of a decrease of capital stock.

In most other states much the same liabilities are imposed by statute.

§ 79. Liabilities of Directors under Common Law.

Apart from any state laws, directors are liable personally for loss or damage resulting from any action authorized by them that is beyond their powers, or the powers of the company; also for any corporate fraud, trespass, or other unlawful act, committed with their connivance, assent or knowledge. They would also be held liable for issuing stock as full-paid when it has not been fully paid, or for any other gross mismanagement. Directors are held liable for paying dividends that impair the capital stock, whether it be done negligently or wilfully. Directors are also generally held liable to the corporation for any negligence or default in attending to the corporate affairs. They are trustees for the company, and as such are bound to give its affairs all requisite care and attention. Their failure to do this makes them responsible for any resulting loss or damage.

§ 80. General.

It may be said in general that the directors of a company, being trustees of its property, are expected to manage its affairs carefully and discreetly, and as a prudent business man would manage his own business. As a trustee, a director must have no interest adverse to the interests of the company, and he

should not be personally involved in any contract or business in which the company is concerned. Any objecting stockholder may have a contract between a director and the company set aside if he can show any reasonable ground therefor.

It may be said, however, that the law as to the liabilities and obligations of directors is much more satisfactory than the practice. The majority of corporate frauds occur through lack of honor and honesty, or lack of attention to the business, upon the part of the directors, and, unfortunately, in such cases it is costly and difficult to bring the responsible parties to account. It is far better to avoid any such contingency by electing as directors only men of probity and character.

CHAPTER VII.

OFFICERS.

(BY-LAWS.)

§ 81. Enumeration, Election and Qualifications.

> "The officers of the Company shall be a President, Vice-President, Treasurer, Secretary, General Manager and Counsel. These officers shall be elected by the Board of Directors at their first regular meeting after the election of directors each year, and shall hold office for the term of one year and until their respective successors are duly elected and qualify. The President and Vice-president shall be elected from among the members of the Board of Directors." Art. IV, § 1, By-laws.

The absolutely necessary officers of a corporation are the president, treasurer and secretary. To these a vice-president is customarily added to serve in the absence or disability of the president. Beyond these, when desired, and more particularly in the larger corporations, are vice-presidents, assistant treasurers and secretaries, also a general manager or managing director, and sometimes an auditor and counsel for the company. All these are officers of the company. Those employed under them are ranked as agents and employees. Two offices, where they can be combined to advantage, are frequently held by one person. Directors are not properly officers of the company, though frequently referred to as such.

It is necessary that the president and vice-president, as the presiding officers of the board, be members of that body. To elect one not a member of the board as president would lead to

awkward complications. The other officers may or may not be members of the board.

In conducting elections of officers, ballots should be provided by the secretary upon which the respective votes of the directors are recorded. The president appoints tellers, usually two in number, who collect the ballots, count them and report the results to the president, who then announces the names of the officers elected. In the smaller corporations the newly elected officials are usually installed in their offices at once and take charge of the meeting. In the larger companies the transfer of office to the officers-elect is generally more formal, and takes place after the close of the meeting. (See § 71.)

§ 82. Vacancies and Removals.

As has been seen under the by-law provisions in Section 71, Chap. VI, the directors have power to fill vacancies and to remove any officer at pleasure. Officers cannot be removed without cause unless the by-laws, the charter, or the statutes of the state, give such power of removal in express terms. In New York, by statute, a majority of the directors at any legal meeting of the board may remove officers with or without cause.

Where this power of removal is not conferred by statute, charter or by-laws, and an officer becomes obnoxious to a majority of the stockholders and directors, all effective power may be taken from him by the passage of appropriate by-laws and resolutions. In like manner, should the proper officer refuse to act, power might be given to any other officer or agent to do whatever was necessary.

It should be noted that by-laws giving to directors or stockholders the power to remove officers without cause would not be effective as to officers already elected, but would apply in the case of all officers elected after the passage of such by-law.

§ 83. The President.

"The President, when present, shall preside at all meetings of the stockholders and of the Board of

Directors; shall sign all certificates of stock; shall sign, or countersign, as may be necessary, all such bills, notes, checks, contracts and other instruments as may pertain to the ordinary course of the Company's business, and sign, when duly authorized thereto, all contracts, orders, deeds, liens, licenses and other instruments of a special nature.

"He may also, in the absence or disability of the Treasurer, endorse checks, drafts and other negotiable instruments, for deposit or collection, and shall, with the Secretary, sign the minutes of all meetings over which he may have presided.

"At the first regular meeting of the Board in January he shall submit a complete report of the operations of the Company for the preceding year, together with a statement of the Company affairs as existing at the close of such year, and shall submit a similar report at the annual meeting of stockholders; also, he shall report to the Board of Directors, from time to time, all such matters coming within his notice and relating to the interests of the Company as should be brought to the attention of the Board.

"He shall be, *ex officio,* a member of all standing committees, shall have such usual powers of supervision and management as may pertain to the office of President, and perform such other duties as may be properly required of him by the Board of Directors.

"(He shall have the general supervision and direction of the other officers of the Company and shall see that their duties are properly performed.)

"(At the end of each year he shall have an audit made of the books and accounts of the Company by a qualified public accountant, whose report shall be submitted to the annual meeting of stockholders and to the Board of Directors.)

"(He shall receive for his services such compensation, not exceeding twenty-four hundred dollars per annum, as may be fixed by the Board of Directors.)." Art. IV, § 2.

This section goes so much further into detail than is usually necessary that little comment is required. The paragraphs

given in parenthesis are inserted or omitted according to circumstances. They explain themselves.

The president is supposed to be the most important officer of the corporation, and should be ordinarily a man of exceptional ability in the particular business of his corporation. It often happens, though, that the president is chosen by reason of his reputation in other lines, and merely serves as a figurehead. This is not prejudicial if others in the corps of officers possess the requisite executive ability to properly conduct the company's business.

The board may at any time lay additional duties upon the president; and, as the official head of the company, many things devolve upon him from time to time that cannot be specified in advance. Should he be in doubt as to his power or duty in any particular matter, he may relieve himself from the responsibility of a decision by calling upon the board for instructions.

Legally the president has no power to buy, sell or contract for the corporation except in the regular routine of business, unless authorized by resolution of the board, or unless, from his previous action as the authorized agent of the company in particular directions, such authority may be rightly inferred. He has no power to execute a corporate deed, a mortgage, an assignment of property, license or other formal instrument, or to bind the company by a promissory note, outside the ordinary course of business, unless expressly authorized to do so.

For example, the president of a realty company could execute a deed without express authority because in the ordinary course of his business, but the president of a manufacturing company could not execute a deed unless expressly authorized thereto.

It has been decided, however, that, where the president is authorized to attend to any particular business, he is authorized to make all contracts and to do everything that is usual or necessary in the course of such business. Also in actual practice the president is so commonly authorized to act generally for the company that his powers are considerable; and unless it

was shown that he had gone clearly outside of his usual course of business, his contract would bind the company. Also any act or contract of the president, even in excess of his authority, may be ratified by the action or assent of the board, and without this would bind the company if it accepted the benefits of such act or contract.

The president's annual reports to the stockholders and directors should always be an intelligent presentation of the real condition and business situation of the corporation. The president is also usually responsible for such reports to the state officials as are required by the state laws. While it is the duty of the secretary and treasurer to do all the clerical labor and to furnish the necessary statistics and information for these reports, the president should supervise the matter, and satisfy himself as to their accuracy and completeness.

It is not usual to limit the president's salary in the by-laws, but such provision would in many cases prevent the excessive salaries that are paid to such officers. The president and other officers should in all cases have a fair recompense for their services, but should not be allowed to divide the profits of the company under guise of salaries; unless, as is sometimes the case in small corporations, all the stockholders are officers, and by fair agreement arrange to divide the profits in the shape of salaries rather than as dividends.

§ 84. The Vice-President.

> "The Vice-President shall familiarize himself with the affairs of the Company, and, in the absence, disability or refusal to act of the President, shall possess all of the powers and perform all of the duties of that officer." Art. IV, § 3, By-laws.

This section defines the position of the vice-president. The absence, or disability, or refusal to act of the president should be undoubted, and there should be a real necessity for taking action in order to justify the vice-president in assuming the office of the president. Where the vice-president rightly

assumes the office of president he is entitled to possess and exercise every power of that official as fully as would the president himself.

§ 85. The Secretary.

"The Secretary shall keep full minutes of all meetings of the stockholders and of the Board of Directors; shall read such minutes at the proper subsequent meetings; shall issue all calls for meetings and notify all officers and directors of their election; shall have charge of and keep the seal of the corporation and affix the same to certificates of stock when such certificates are signed by the President and Treasurer, and shall affix the seal, attested by his signature, to such other instruments as may require the same.

"He shall keep the stock certificate book and the other usual corporation books, and shall prepare, record, transfer, issue, seal and cancel certificates of stock as required by the transactions of the Company and its stockholders.

"He shall make such reports to the Board of Directors as they may request, and shall also prepare such reports and statements as are required by the laws of New York. He shall make out twenty days before any election of directors a complete list of the stockholders entitled to vote at such election, arranged in alphabetical order and giving the number of shares of stock that may be voted by each, and shall keep the same open to inspection at the office of the Company until the time of and during the said election. He shall allow any stockholder, on application in business hours, to inspect the stock certificate book, the stock transfer book and the stock ledger.

"He shall attend to such correspondence and to such other duties as may be incidental to his office or be properly assigned him by the Board.

("He shall receive such salary, not exceeding twelve hundred dollars per annum, as may be fixed by the Board of Directors.") Art. IV, § 4, By-laws.

The duties of the secretary are well summarized in the by-law as given. Fuller details will be found in Chapters XII to

XVI; also in that part of Chapter IX relating to the custody and use of the corporate seal.

§ 86. The Treasurer.

"The Treasurer shall have the custody of, and be responsible for, all moneys and securities of the Company; shall keep full and accurate records and accounts in books belonging to the Company, showing the transactions of the Company, its accounts, liabilities and financial condition, and shall see that all expenditures are duly authorized and are evidenced by proper receipts and vouchers. He shall deposit in the name of the Company in such depository or depositories as are approved by the Directors, all moneys that may come into his hands for the Company account. His books and accounts shall be open at all times during business hours to the inspection of any Director of the Company.

"The Treasurer shall also endorse for collection or deposit all bills, notes, checks and other negotiable instruments of the Company; shall pay out money as may be necessary in the transactions of the Company, either by special or general direction of the Board of Directors, and on checks signed by the President and himself, and shall generally, together with the President, have supervision of the finances of the Company.

"He shall also make a full report of the financial condition of the Company for the annual meeting of stockholders, and shall make such other reports and statements as may be required of him by the Board of Directors or by the laws of the State.

"He shall give bond in the sum of five thousand dollars, with sureties satisfactory to the Board of Directors, for the faithful performance of his duties and for the restoration to the Company in event of his death, resignation or removal from office, of all books, papers, vouchers, money and other property belonging to the Company that may have come into his custody.

"He shall receive such compensation, not exceeding eighteen hundred dollars per annum, as may be fixed by the Board of Directors." Art. IV, § 5, By-laws.

The treasurer is responsible for the safety of the corporate funds and property and for the due record of all its financial transactions. In a small corporation he would be its bookkeeper; in a larger company he would supervise the clerical force. The treasurer has no power to bind the company by contract except as specially authorized, or authorized by custom or practice.

Whatever arrangement is made as to the payment of money and the signature of checks should be stated clearly in the by-laws. At the first meeting of the directors, a resolution should be passed in accordance with these by-law provisions, directing that the funds of the company be deposited in a certain bank or banks, in the name of the company and subject to its check when signed by such officer or officers as are designated. (See Form 35.) The secretary should then prepare a certified transcript of this resolution (See Form 128), which would be filed with the proper officials of the bank or banks designated, together with the signatures provided for in the resolution. Under no circumstances should the treasurer deposit any funds of the company in his own name, or even in his name as treasurer, or in any manner mingle corporate funds with his own. The funds of the company should be deposited only in the corporate name.

If the treasurer is to handle any amount of money, he should give bond for its safekeeping. The security of some regular guarantee company will be most satisfactory. If it is merely provided that he shall give security satisfactory to the board of directors, it rests with the board to make sure that this security is real and not nominal. (For Treasurer's Bond, see Form 149.)

§ 87. Managing Director.

> "The Board of Directors may, at their discretion, appoint one of their number Managing Director, and for such time as he shall fill said office he shall have control and supervision of the general business affairs of the

Company, and shall exercise all such authority in the conduct thereof as the President of the Company would otherwise have or exercise."

Where the president is not able, or does not care, to give the time and attention needed for the direct supervision and management of the company, it is frequently found advantageous to appoint one of the board managing director. Also such official is sometimes appointed to take charge of the business of a company during the temporary absence or disability of the president. The arrangement is a very convenient one under circumstances that often arise in the course of corporate business.

The position of managing director is one of much greater dignity than the position of general manager, though his duties may include those generally assigned this latter official. The managing director is the representative of the board, delegated to take charge of the active business of the company, and as such he may be given all the power of the board itself. In all matters connected with the conduct of the corporate business the position is usually the equivalent of the place and authority of the president; whereas the position of general manager is one of comparative subordination. Under the by-law given, the board should appoint by resolution (See Form 38), and the term of appointment should be definitely stated; also any special compensation to be given the managing director should be specified. The authority delegated may be made greater or it may be limited by changing the form of the by-law.

§ 88. General Manager.

"The General Manager shall, under the supervision of the Board of Directors and the President, have charge of and manage the active business operations of the Company. He shall perform such other duties as may be required of him by the Board of Directors, and shall receive such salary, not exceeding twenty-four hundred dollars per annum, as may be fixed by the Board." Art. IV, § 6, By-laws.

The general manager, while an officer of the company, is not so in the sense that the president, secretary and treasurer are, as he has no concern with the corporate affairs or finances. He is appointed to take charge of its ordinary business, which he manages exactly as he would were he working for a firm or an individual. His powers and duties are limited to the transaction of the particular business in which the company is engaged, and only so far as is necessary to carry on routine business has he any power to contract for the company.

Unless called upon by the board to make reports direct to it, the general manager would properly report to the president and receive directions from him. He should be a practical man, able to manage employees and skilled in the particular business carried on by the corporation.

If the general manager should be unsatisfactory, his removal would depend entirely upon the nature of his contract with the corporation and would be governed by the usual laws relating to contracts of employment.

§ 89. Counsel.

> " Counsel of the Company shall prepare all such contracts and agreements required in the business of the Company as may be referred to him by its officers; and shall inspect and pass upon all such instruments presented to the Company as may be of sufficient importance to justify such examination; also, he shall advise with the officers of the Company in all such legal matters pertaining to the affairs of the Company as may require his consideration. He shall receive such annual retainer, not exceeding six hundred dollars per annum, as may be fixed by the Board of Directors." Art. IV, § 7, By-laws.

The duties of counsel are well outlined in the by-law as given. He has no authority in company affairs, except in connection with litigation which the board of directors have authorized him to undertake, or in special matters in which he has been empowered to act. His principal duty is to advise

and counsel with the officers of the company, in order to avoid litigation and other complications. The annual retainer paid him depends on the amount of work involved, ranging from fifty dollars upward. Sometimes payment is made entirely contingent on services rendered; usually, however, a retainer is paid for the privilege of advice and consultation, with the understanding that drafting contracts, conducting litigation, or other active legal assistance, shall be paid for in addition at regular rates.

§ 90. Liabilities of Officers.

Officers of corporations are liable generally for damages resulting from their negligence or wrongdoing in connection with their official duties. In addition to this, in the various states, special liabilities are imposed by statute. For example, the officers of a New York corporation, or of a foreign corporation doing business in New York, are by statute liable as follows:

1. For wilful neglect or refusal to make any proper entry in the stock books of the company, or neglect or refusal to exhibit the same to those entitled to inspect them, an officer shall forfeit to the party injured a penalty of fifty dollars and shall pay all damages resulting from such neglect or refusal. (Stock Corp. Law, § 29.)

2. For making any certificate, report or public notice that is false in any material feature, the officers and directors signing the same shall, if any loss or damage ensue therefrom, be personally liable to any person who becomes a creditor or stockholder upon the faith thereof. (Stock Corp. Law, § 31.)

3. For any loan or discount to a stockholder from corporate funds, or for receiving any note or evidence of debt in payment of amounts due on stock, or for receiving or discounting the same from corporation funds to enable any stockholder to withdraw money paid on account of stock, the officers and directors implicated shall be personally liable for all debts of the corporation to the full amount involved, until such amount shall be repaid with interest. (Stock Corp. Law, § 25.)

In addition to the foregoing liabilities, in New York, as in many of the other states, severe criminal laws exist against most kinds of official misbehavior or fraud. It should be especially noted that in New York any officer or employee of a corporation who " falsifies, or unlawfully and corruptly alters, erases, obliterates or destroys any accounts, books of accounts, records or other writing belonging to, or appertaining to the business of the corporation " is guilty of forgery. " Making a false entry " or " wilfully omitting to make a true entry of any material particular " " with intent to defraud or conceal any larceny or misappropriation " is likewise held to be forgery.

The New Jersey laws specify the following liabilities that may be incurred by the secretary or other officers of a corporation:

1. Any officer refusing inspection of the stock or transfer books to a stockholder shall forfeit two hundred dollars. (Gen. Corp. Law, § 33.)

2. No loan shall be made by the company to any stockholder or officer of the company. If made, the officer who makes or assents thereto, shall, until such loan is repaid, be liable to that extent for the debts of the corporation. (Gen. Corp. Law, § 48.)

3. Any officer signing any certificate or public notice that is false shall be personally liable for all debts of the corporation contracted while he remains an officer or stockholder of the corporation. (Gen. Corp. Law, § 52.)

4. The annual report to the assessors shall be signed by the president, treasurer or secretary, and if any false statements be made therein, said officers shall be deemed guilty of perjury.

The criminal laws of New Jersey are as severe as those of New York in the penalties imposed generally upon the offenses of corporate officers.

§ 91. General.

Chairman of the Board.—In addition to the officers already named, provision is sometimes made for a chairman of the board, whose duty is to preside at all meetings of the board, and to advise and counsel with the president and other officers. In some cases, he is given much of the authority that usually belongs to the president, and the president is practically made a subordinate officer. Generally speaking, it would seem that the president could, with the assistance of the vice-president, do everything necessary in this direction, and that the real purpose in creating the office of chairman of the board is to provide for that official a dignified position.

Auditor.—In the larger corporations it is customary to elect an auditor, whose duty it is to supervise the whole system of accounts, finance and business records. Such officer should of necessity be an expert accountant.

Auditing Committee.—It is customary in some corporations to appoint an auditing committee to go over the books and accounts of the company at stated times and report their condition to the stockholders. As the gentlemen appointed on this committee usually have business of their own, are probably personal friends of the officers, and are not likely to have the skill to properly examine corporate books, it is but rarely that their examination amounts to more than a cursory inspection of the books and a perfunctory report that everything appears to be in good shape. If an examination is deemed necessary, it should be made by a professional accountant, whose reputation will not allow him to report anything but the exact conditions. Among the clauses defining the duties of the president in Section 83 is a provision that he shall have an annual audit made by a competent accountant, whose report shall be submitted to the stockholders and directors. This is far superior to the superficial examination and report made by the usual auditing committee.

De Facto Officers.—If any one connected with a corporation is allowed to publicly act as an officer or agent of such corporation, he is a *de facto* officer, even though he has no legal right to the position. Persons dealing with a corporation cannot investigate and ascertain whether those who are representing it have been legally appointed; therefore the law holds that the acts of a *de facto* officer are binding on the company. That is, if the stockholders of a company allow any one to represent it, outsiders are justified in assuming that such representative has been legally appointed, even though this may not be the case. In the same way, if the directors were not legally elected, they could still bind the corporation until proper legal proceedings were instituted for their removal. Their contracts would be valid as long as they were allowed to act.

CHAPTER VIII.

DIVIDENDS AND FINANCE.

(BY-LAWS.)

§ 92. Dividends.

> "Dividends shall be declared at such times as the Board may direct, but no dividend shall be declared or paid save from surplus profits remaining after all current liabilities of the Company have been fully paid; nor shall any dividend be declared that will impair the capital of the Company." Art. V, § 1, By-laws.

The provision as to payment of dividends from profits is both statute and common law. It is of the essential nature of dividends that they are to be paid only out of profits. Any dividend that is not so paid would of necessity impair the capital, and would therefore be illegal. Directors make themselves personally liable by declaring any such illegal dividends; and, should the company become insolvent, the stockholder who receives such a dividend may be compelled to repay it. If an illegal dividend is contemplated, any stockholder may enjoin its declaration and payment.

Surplus funds or profits on hand are not dividends, as a dividend does not exist until it has been declared by the board of directors. Once legally declared, however, the funds involved cease to belong to the company and become the property of the shareholders of record. The corporation cannot refuse to pay such declared dividends out to them, if demanded. Where the real owner of stock has neglected to have it transferred to his name on the books of the company, he cannot

claim dividends himself, as these will have been credited to the holder of record. To this latter he must look for relief.

Where stock has been pledged, the dividends should be paid to the pledgee, if the company has been notified of such pledge and has been properly authorized thereto. If the company has not been notified and the stock remains in the name of the pledgor, the company would pay any dividends to the latter, and leave the pledgor and the pledgee to settle the matter between themselves.

Dividends must always be equal, as between holders of the same class of stock. If preferred stock has been issued, its dividends would be paid before anything was paid on common stock, but if the profits only suffice for a partial payment of the preferred dividend, each holder would receive the same proportionate amount. Particular holders cannot be favored either in time of payment or amount paid.

§ 93. Reserve Fund.

> "No dividend to exceed six per cent. per annum shall be declared by the Board of Directors until there shall have been accumulated from surplus profits a reserve fund of ten thousand dollars, such fund to be used for the extension or enlargement of the business of the Company and the betterment of its plant, or for such other purposes as may be necessary or advisable." Art. V, § 2, By-laws.

This by-law is intended to limit the paying out of the entire profits as dividends until a suitable reserve fund or working capital has been accumulated. In the State of New Jersey, unless the charter or by-laws contain some such provision as the foregoing, the directors are compelled by law annually to pay out as dividends all profits to the last cent. In New York, and in most other states, the directors would have the power to withhold dividends and accumulate a reserve fund, even though there were no such by-law. Under any circumstances, it is usually advisable to have a by-law giving a definite amount that is to be accumulated before large dividends are paid.

§ 94. Debt.

> "No debt shall be contracted, nor liability incurred, nor contract made by or on behalf of this Company in excess of one thousand dollars unless the same be authorized or directed by the by-laws or by a duly recorded two-thirds vote of the entire Board of Directors at a regular meeting, or at a special meeting called for the purpose." Art. V, § 3, By-laws.

The advisability of having such a limitation upon the power of the directors and officers to contract debt, and the limit to be fixed, depend upon the circumstances of the company. If, in defiance of this limitation, debts were contracted beyond the allowed amount, the directors and officers concerned would be personally responsible.

In the absence of any such limitation, the directors of a company have in most states unrestricted power to incur debt or borrow money. In New York, however, the directors cannot mortgage the property of the company unless authorized to do so by the holders of two-thirds of the outstanding stock. In New Jersey there is no such restriction, but it is always customary to authorize a mortgage of corporate property by a vote of the stockholders.

The general subject of the issue of bonds has not been taken up in this work, on account of the space required for adequate presentation of the necessary forms, but will be treated in a subsequent work on Corporate Organization.

§ 95. Bank Deposits.

> "The Treasurer shall deposit the moneys of the Company as the same may come into his hands, in such depository or depositories as may be designated by the Board of Directors, and such deposits shall be made in the name of the Company." Art. V, § 4, By-laws.

The board of directors should designate the bank or trust company in which the funds of the company are to be deposited by passing suitable resolutions at their first meeting. (See

Form 35.) A copy of this resolution, duly certified by the secretary, should be given to the bank. (See § 86 and Form 128.)

§ 96. Surplus.

> "Any surplus funds accumulated above such average balance as may be necessarily maintained for the business of the Company, and in excess of the reserve fund and of dividends declared or to be declared for the current year, shall be invested in securities approved by the Board of Directors." Art. V, § 5, By-laws.

This section gives directions for the investment of funds, over and above dividends, working capital and reserve fund. It is necessary in very few corporations.

CHAPTER IX.

SUNDRY PROVISIONS.

(BY-LAWS.)

§ 97. Corporate Seal.

> "The corporate seal of the Company shall consist of two concentric circles, between which shall be the name of the Company, and in the centre shall be inscribed 'Incorporated 1903, New York,' and such seal, as impressed on the margin hereof, is hereby adopted as the corporate seal of the Company." Art. VI, § 1, By-laws.

The corporate seal is used in all those cases in which an individual would use a seal, as in the execution of deeds, bonds, mortgages and the like; also, on all certificates of stock. It should likewise be used to authenticate transcripts from the by-laws and minutes. In the execution of any important instrument it is safe to affix the seal, though ordinary contracts relating to personal property and the employment of agents and officers are held to bind the corporation without being sealed. The imprint of a seal on an instrument could not under any circumstances lessen its legality in any way.

The mere impression of the seal upon the paper, without wax or wafer, is sufficient. Gilt and colored seals are often affixed to stock certificates to add to their impressiveness. Almost any device or impression used with the intent to serve as a seal will be recognized as such by the courts.

The secretary, by virtue of his office, is the custodian of the seal, and it is his duty to affix it to all certificates, instruments

and contracts where customary, or where he has been directed so to do. When he signs an instrument as an officer of the corporation, he merely adds the impression of the seal without formal attestation, as shown in Form 103. Where the instrument is signed by other officers or agents, and the secretary does not sign, but merely affixes the seal, he should attest the impression by his signature as shown in Form 104. In event of the absence, death or disability of the secretary, or under any circumstances, any other officer or agent of the company might affix the seal, if authorized thereto by the board of directors. (See further § 152.)

§ 98. Penalties.

> "Any officer, director or stockholder who shall disobey or violate any of the provisions of these by-laws shall be fined in an amount not to exceed twenty dollars, such fine to be imposed by the Board of Directors, and, if not paid at the time, to be deducted from any salary or dividend then due or that may thereafter become due said person." Art. VI, § 2, By-laws.

In regard to the matter of enforcing by-laws by means of penalties, see comment in Section 36, "Enforcement of By-laws."

§ 99. Amendments.

> "These by-laws may be amended, repealed or altered, in whole or in part, at any regular meeting of the stockholders, or at any special meeting, where such action has been duly announced in the call, provided that a majority of the entire voting stock of the Company shall vote for such amendment, repeal or alteration." Art. VI, § 3, By-laws.

The by-law as given requires a majority of all outstanding stock to amend the by-laws. The usual provision for amendment of by-laws requires only a majority of the stock present at the meeting. It is questionable whether amendment by so small a proportion of the voting stock is advisable.

In many of the large New Jersey corporations the power to amend by-laws is given unreservedly to the board of directors, and the by-law regulating amendments reads simply:

> "The Board of Directors, by a vote of a majority of the entire membership, may alter or amend these by-laws at any regular meeting of the Board.

But provision must have been made in the charter of the company to make such a by-law effective. (See § 73.)

If by-laws are to be amended at a special meeting, it is preferable that the call for such meeting and the resolution adopted at the meeting by which the change is made, should set forth both the existing by-law and the proposed amendment. (See Form 73.)

§ 100. Parliamentary Law.

In all matters of procedure where the by-laws do not prescribe the action to be taken, recourse must be had to the ordinary rules of parliamentary law. Where meetings are frequent, the by-laws sometimes provide that some particular work, such as "Robert's Rules of Order" or "Cushing's Manual," shall govern in all matters of procedure not otherwise determined. Where this is not done, it is nevertheless the duty of the president to enforce the usual parliamentary laws and to preserve order and decorum in all actions and proceedings of the stockholders and directors.

§ 101. General.

More care should be exercised in the preparation of by-laws than is usually given. Generally a ready-made set of by-laws is taken, a few names and dates inserted, and the set is adopted. This off-hand method of providing by-laws is one reason for the demand that power to make and amend be given the directors. The by-laws being a misfit from the start, restrict the working power of the company and require constant amendment.

To arrange a set of working by-laws for a company requires a good general knowledge of the corporation laws of the particular state, and of the course of business of the proposed corporation. Nothing that is needless should be included and nothing necessary should be omitted. If this is done, the corporate machinery will run smoothly, and misunderstandings and possibly litigation will be avoided.

If the requisite skill and ability for this cannot be secured, the next best plan is to adopt the simplest set of by-laws possible, and make changes and additions from time to time as the necessity arises. The short set given in Form 21 is recommended for this purpose. If more detail is needed, careful study of the by-laws hereinbefore considered (which are given as a whole in Form 22), the statute law of the state, and the business requirements of the particular corporation, should furnish materials for the compilation of an excellent working set.

PART III.—PROCEDURE.

CHAPTER X.

STOCKHOLDERS' ANNUAL MEETING.

(See Minutes "Stockholders' Annual Meeting," Form 98.)

§ 102. Preliminaries.

The matters requiring the secretary's attention preliminary to the annual meeting of stockholders are as follows:

1. Closing of transfer book and preparation of lists of stockholders. (See Forms 64, 65.)
2. Notice of meeting, and, in New York, advertisement of same. (See Forms 87, 88.)
3. Preparation of outline minutes, blanks for inspectors' oaths and certificates, etc. (See Forms 62, 66, and 67–70.)

The corporate calendar (See § 155 and Forms 151 and 152) should show the exact date on which the transfer books are to be closed, notices to be sent out and advertisement of meeting, if any, published.

Closing Books.—The object in closing the books to transfers prior to the annual meeting is to give the secretary time to prepare his lists of stockholders and so avoid any uncertainty as to who is entitled to vote at that meeting. The date, prior to the meeting, on which the transfer books are closed is usually fixed by the statutes or the by-laws. For New York corporations this date may be any number of days prior to the meeting

not exceeding forty. For New Jersey it may be any reasonable number of days prior to the meeting not less than twenty.

No formality attends the closing of the books, and no entry thereof is made upon the books, the secretary merely refusing to transfer any certificate presented to him for that purpose during the specified period. Where notice of the annual meeting is given by publication, such notice usually gives the dates for the closing and the reopening of the transfer book.

Publication.—In regard to advertising the annual meetings of New York corporations, it should be noted that while newspaper publication of notice of meeting is required by statute, and while such notice is usually given by the larger corporations, no penalty is provided for non-observance of the statute, and in the smaller corporations the published notice is very generally omitted. In such case particular care should be taken to duly notify every stockholder by mail, or by any other means specified in the by-laws, of the time and place of meeting. Unless there is entire acquiescence on the part of the stockholders, the statutory provision as to publication should be observed. Copies of papers in which the advertisement of the meeting appears should be preserved by the secretary. (Form 88.)

Notice.—The notice of annual meeting should be sent to the last known address of each stockholder on the specified date, and a copy of the notice as sent with date of sending endorsed thereon, should be preserved by the secretary as evidence, if needed, that proper notice of the meeting was given. If the notice of the meeting was published, copies of the papers in which such notice appeared should also be preserved by the secretary. (See § 52 and Form 87.)

Proxies.—Acting under instructions from the board or president, the secretary frequently sends out with the notice of meeting blank proxy forms inviting each stockholder, if unable to be present at such meeting, to sign and send in the proxy. The proxies when returned are usually signed in blank; that is, with the name of the proxy omitted. The name of the secretary,

or some one else present at the meeting, is then inserted so as to make the instrument complete, and in this manner a quorum is often secured when otherwise the annual meeting would fail for lack of such quorum. (See Chap. XXII.)

The alphabetical lists of stockholders are taken from the stock books after these are closed to transfer, and show the number of votes that may be cast and who is entitled to cast them. In New Jersey the alphabetical list of stockholders is required by statute; in New York and most of the other states it is merely a convenience. This list should be presented by the secretary to the meeting, should be open to the inspection of any stockholder, and is referred to in case of any uncertainty as to who is entitled to vote, or as to the number of votes any stockholder is entitled to cast. The company stock books are, however, the final authority in any such matters and should be readily accessible for reference in case the accuracy of the list is impugned, or any other question arises necessitating their use.

Outline minutes will be found advantageous for the secretary's own use, covering all routine business, so that a few short pencil notes will usually suffice to dispose of the whole, leaving the secretary free to attend to new or special business, or anything else that may come up to demand his services. Outline minutes are usually arranged on loose sheets of paper, with additional blank sheets for the notes of any other business transacted. (See §§ 143, 144 and Form 66.)

Inspectors of Election.—Both in New York and New Jersey the election of directors is conducted by inspectors, and the secretary should provide the blanks in advance for inspectors' oath and certificate. It is the secretary's duty to see that all stationery, blanks, materials and any books or documents in his possession that may be needed at the meeting are on hand or readily accessible; and he should make his arrangements with care, so that no delays in the meeting shall occur through his negligence. (See Chap. XXIX.)

Order of Business.—A copy of the order of business should be prepared in advance by the secretary and handed to the president before the meeting is called to order. It serves to guide the president in the conduct of the meeting and prevents the omission of matters that without it might be overlooked. (§ 58 and Form 62.)

§ 103. Opening the Meeting.

Where the by-laws provide that the president and secretary of the company shall officiate at stockholders' meetings the proceedings are much simplified. At the appointed time and place the president, as a matter of course, requests the meeting to come to order, and the secretary, if he has not already done so, should then lay before the president the order of business, copied on a card or in other convenient form, together with the list of stockholders.

Should the president fail to appear at the time of meeting, the vice-president would preside, conducting the meeting in all respects as would the president. Should the vice-president also be absent, the next officer in due order who might be present (See § 57) would serve.

Where the by-laws make no provision for officers of stockholders' meetings, the stockholders will themselves, for each meeting, elect or appoint a chairman and any other necessary officers. Such officers would take full charge of the meeting and would sign the minutes of such meeting. It is customary for the secretary of the company to be appointed at such meetings as the secretary of the meeting in order to avoid the embarrassment necessarily resulting from the appointment of one not familiar with the stockholders and the stock records of the company. (See §§ 114, 122.)

The minutes should give a concise statement of all the essential proceedings of the meeting. If the regular officers of the company were in charge, the opening entry might properly be as follows:

"The stockholders of the Armor Automatic Brake Company met in annual meeting in the office of the Company, 56 Liberty Street, New York City, at 10 A. M., January 5th, 1903.

"The meeting was called to order by Milton D. Armor, President of the Company. Henry M. Sage, Secretary of the Company, acted as Secretary of the meeting."

Should the by-laws not provide that the regular officers take charge of the meeting, the latter portion of the entry would vary in accordance with the facts and might be as follows:

"The meeting was called to order by Mr. J. C. Field, who stated that the first business before the meeting was the election of a Chairman. Upon motion, duly seconded and unanimously carried, Mr. John Adams was chosen Chairman of the meeting. Mr. Adams at once took the Chair and, in the absence of objection thereto, appointed Henry M. Sage, Secretary of the Company, as the Secretary of the meeting."

§ 104. Roll Call.

The presiding officer would, after the opening preliminaries, request the secretary to call the roll and report whether a quorum were present or represented. Practice varies as to the precise manner of roll-call. Usually the secretary uses an alphabetical list prepared for the purpose (See Form 65) and calls the names of the stockholders therefrom. If the stockholder whose name is called is personally present, he responds to the call and is properly noted on the secretary's list. If not present, but represented by proxy, the party representing him responds as his proxy, and is properly noted on the list.

Were the number of the stockholders very great, while the number of representatives in attendance at the meeting were small, it would be entirely proper for the secretary, instead of calling off every name, to call upon each person present for a report as to the stock owned or represented by him. The stock so reported would be noted on the secretary's list, and

any stock not reported would be noted as not represented. In this way the secretary would get the necessary data as to the stock represented much more expeditiously than by formal roll-call.

It should be noted that the important point to be determined by the roll-call is not the number of persons present at the meeting, but the number of shares of stock represented.

One man might by ownership and proxies represent the entire stockholding interests of the company at a meeting, and such meeting if properly conducted would be perfectly legal.

When any one appears as a proxy, he should answer to the absentee's name on roll-call as the representative of such absentee; and should, either previously to roll-call or at the time, file his proxy with the secretary. (See Forms 23–30.) In case he should wish to preserve his original proxy for subsequent use or reference, he should file a duplicate or certified copy of such proxy with the secretary, at the same time exhibiting the original for inspection by the officers of the meeting.

In the event of any dispute as to the number of shares to be voted by any person present, or on any proxy, reference would be made to the stock book, which would be final.

After completion of the roll-call, the secretary would add the different columns of his list (see Form 65), enter the footings, and announce the result to the meeting in the following manner:

"Present in person, 164 shares; represented by proxy, 210 shares; total represented, 374 shares; not represented, 46 shares. Total shares outstanding, 420. Necessary to a quorum, 211 shares."

A quorum being present, the presiding officer announces the fact and states that the meeting will proceed with its business. (§ 55.)

The entry in the minutes would be as follows:

"The roll-call showed the following result:

Present in person	164	shares
Represented by proxies	210	"
Total represented	374	"
Absent and not represented	46	"
Total shares outstanding	420	"
Necessary for a quorum	211	"

The President thereupon announced that a quorum was present and that the meeting would proceed to the next order of business."

Adjournment.—Should the roll-call show that a quorum was not present, and no other stockholders could be found to make up the quorum, the meeting might simply adjourn *sine die.* This would leave the existing board of directors to hold over until the next annual meeting, or until a special meeting was called for the election of directors and the transaction of any other postponed business. Or the meeting might adjourn to some specified time in hopes of a quorum being then present. If the latter course were adopted, no notice of the adjourned meeting need necessarily be sent out, this latter being regarded as the same meeting as the one from which it was adjourned and as therefore not requiring any further notice. It is, however, the better practice for the secretary to send out notice of the time and place of such adjourned meeting, as otherwise it might in some instances be overlooked and forgotten. (§§ 55, 110.)

§ 105. Proof of Notice.

After roll-call the presiding officer would inquire of the secretary whether due notice of the meeting had been given. In response to this the secretary should, if the meeting had been advertised, produce copies of the papers containing the advertisements, and should also submit a copy of the notice

sent out by mail with a certificate attached thereto stating that, on such a date (mentioning date), a copy of the notice had been mailed to the last known address of each stockholder of record, all in full compliance with the requirements of the by-laws. This certificate might be in writing and signed by the secretary; or, in a very formal meeting, might be attached to the notice in the form of an affidavit. This affidavit might be required at any meeting if a dispute as to the sufficiency or legality of notice arose. (See Forms 124, 125, 126.)

The entry in minutes would be as follows:

> "The Secretary then submitted copies of the 'New York Times,' dated December 20th and December 27th, 1902, containing due advertisement of the meeting, and a copy of the notice of the meeting, with certificate attached, stating that copies thereof had been mailed to each stockholder of record on December 24th, 1902.
>
> "No objection being made, the proof of notice as presented was ordered received and filed."

§ 106. Reading of Minutes.

The presiding officer would then call for the reading of minutes of the previous meeting, and in response the secretary should read the minutes of the annual meeting held in the preceding year; also the minutes of any special meeting or meetings of the stockholders held during the year. At the close of the reading of each set of minutes the president or chairman would announce, "If there is no objection, the minutes as read will stand approved," or the same object might be accomplished by passing a motion that the minutes as read be approved.

If any immaterial or obviously necessary changes in the minutes were suggested, and no objection were made thereto, the presiding officer would merely direct the secretary to make the correction. If the corrections were important, motion should be made to correct the minutes as suggested. If the motion prevailed, the minutes would be ordered amended.

After any changes, the minutes would be approved "as corrected," in the absence of objection, usually by order of the president or chairman, otherwise by formal motion. (See § 140.)

It should be noted that the minutes of an annual meeting are not read and approved at a subsequent special meeting, though this might be legally done if mentioned in the call for such meeting; nor are the minutes of a special meeting approved at a following special meeting unless there is some particular reason for so doing; but all go over to the next annual meeting, when they should be read and finally disposed of. When minutes are approved, they are frequently endorsed by the secretary, "Approved, as read, at the annual meeting of stockholders held (January 10, 1902)," or "Approved, as corrected, at the annual meeting, etc." The entry for approval of minutes should be as follows:

> "The minutes of the previous meeting were read, and no objection being made, were ordered to stand approved."

Or

> "The minutes of the previous meeting were read, and, on motion duly made and passed, were ordered to stand approved." (See Chapter XIV, "Minutes.")

Minutes of a directors' meeting would never be read at a stockholders' meeting, except for purposes of information, and then usually by special motion or request. (See § 140.)

§ 107. Annual Reports.

Following the disposal of the minutes would come the annual reports. The president's report is usually considered first. (See Form 71.) If long, and the contents fairly well known to the stockholders, or if it were to be printed later for distribution among the stockholders, the president would merely present his report; otherwise he would usually not only present but read it. In either case a motion would then be in order that the report be received and filed, or that it be received and

printed for distribution among the stockholders, or that such other disposition be made thereof as the circumstances might demand.

Following the president's report would usually come the treasurer's report, which would be read and disposed of as might be deemed best. (See Form 72.) If any other officers had reports to make, or if the board of directors or any committee had reports to submit, such reports should be presented and read, or acted upon without reading, at this time. (See Form 73.)

Usually these reports are discussed and questions asked and answered concerning them before they are formally received. If any report were incomplete, or erroneous, or objectionable, motions might be made to return such reports for correction, or even to reject them absolutely. The usual disposition, however, is to move that the reports be received and filed. In such case the secretary takes charge of such reports and preserves them for future reference. If the reports were to be printed or disposed of in some other way, usually they would still be entrusted to the secretary, who would be instructed as to their disposition. When it is desirable, reports may, by motion, be ordered spread upon the minutes.

Entries in the minutes would be as follows:

> "The President presented and read his annual report, which was, after some informal discussion by the meeting, upon motion, ordered received and filed.
>
> "The Treasurer's report was then presented and read, and, upon motion, was ordered received and filed.
>
> "The Board of Directors presented a special report relating to the construction of an addition to the factory of the Company and the consequent increase of the Company's indebtedness. On motion, the report was ordered received and filed." (See Forms, Chap. XXX.)

§ 108. Election of Directors.

The next business before the meeting would be the election of directors for the ensuing year. In New York and New

Jersey, this election must be by ballot, and is conducted by inspectors of election. In New York these inspectors are, for the first election of directors, appointed by the board of directors named in the charter; but thereafter are, as in New Jersey, appointed or elected in such manner as is provided by the by-laws. These inspectors, usually two in number (in New York the number must be two), may be stockholders or otherwise, as may seem best; but officers or directors of the company or candidates for office should not be appointed. The inspectors must be sworn to the faithful discharge of their duties before a notary public or other officer authorized to administer oaths. (Forms 67 to 70.)

As soon as appointed, the inspectors of election take entire charge of the election, receiving and counting ballots, and announcing and certifying the results of the election. They may also pass upon the qualifications of voters and the validity of proxies, without regard to any previous acceptance by the secretary or president; and they have a right to refer to the books of the company, if necessary, to verify any claims or statements. In New York, they may even require stockholders offering to vote to make affidavit that they have not been bribed or unduly influenced in the casting of their votes.

The inspectors' certificate and oath for both New York and New Jersey will be found under Forms 67 to 70, inclusive. In New York, when filled out and completed, this certificate and oath must be filed with the county clerk of the county in which the election is held. A duplicate should also be made out and retained by the secretary for his file. In New Jersey, the original is merely handed to the secretary for preservation. Either the originals or certified copies of any proxies should also be preserved by the secretary as a measure of precaution in case of subsequent investigation of the details of the election.

In practice, the appointment of inspectors and the conduct of the election of directors by them is a simple formality, and one easily carried out by any corporation. In many cases, however, in order to avoid the requirements as to inspectors and

as to publication of notice, the smaller New York corporations omit to elect directors at the annual meeting, simply allowing the old board to hold over, any vacancies therein being filled by the vote of its own members. As long as there is no formal objection or protest against this on the part of the stockholders, the status of the directors so holding over is unquestionable, and their actions are perfectly legal. This is also true of New Jersey, and of most, if not all, of the other states of the Union.

Where inspectors of election are not required by statute, the election of directors is a very simple matter. Usually, by statute or by-law, it must be by ballot, and the president will appoint tellers to prepare, distribute, collect and count these ballots; or, in the absence of any objection, will request the secretary to do all this. When the results of the election are obtained, they are either read out by the tellers, or are handed to the president to be read out by him. In either case, after the reading of the vote as cast, the president formally announces the election of the parties receiving the highest votes; the record thereof is made by the secretary; and, as far as the meeting is concerned, the matter is closed.

The entry in minutes for the election would be as follows:

> "The next business being the election of five Directors to serve for the ensuing year, the President appointed two inspectors, Wm. B. Jackson and S. M. Hendricks; who, being first duly sworn, conducted the election of Directors by ballot, and reported the following results of the said election:
>
> | | | |
> |---|---|---|
> | Milton D. Armor | 374 | votes |
> | Henry M. Sage | 374 | " |
> | John Adams | 290 | " |
> | Marshall Manning | 244 | " |
> | Theodore C. Norton | 198 | " |
> | J. C. Field | 185 | " |
>
> "Milton D. Armor, Henry M. Sage, John Adams, Marshall Manning and Theodore C. Norton, having

received the greatest number of votes, were declared elected as Directors for the year next ensuing." (See § 54.)

§ 109. Other Business.

Unfinished business is next in the regular order. It includes any matters which were under discussion or consideration at any prior meeting, regular or special, and which were not finally disposed of thereat. Any matters referred to committees for consideration, or investigation or report, or any matters upon which action had been postponed, would come under this head and be acted upon at this time.

The president, or chairman, would introduce the subject by inquiring if there were any unfinished business to be acted upon by the meeting. If there were no response, it would be entirely proper for the president himself to mention any matters which were under previous consideration and which should be settled.

Should there be no unfinished business, or if there were, so soon as it was completed the presiding officer would pass on to the next order of business and inquire if there were any new business for the meeting to consider. Under this head would come anything requiring the attention of the meeting, such as amendments of the by-laws, resolutions authorizing any important action, calling for information, etc. If the directors or officials wished to take any unusually important action, and did not wish to assume the sole responsibility therefor, it would be brought up, discussed and acted upon at this time; or, if any stockholder wished to protest against any action, or proposed action, of directors or officers, he could with propriety bring it up for discussion at this stage of the meeting.

The minutes for this part of the meeting might be as follows:

"The following amendment to the by-laws was moved by Mr. John Harris and seconded by Mr. Edwin L. Smith, and was adopted unanimously:

"'Resolved, That Section 8, Article III of the By-laws, providing for the election of officers of the Company by the Directors, be amended by adding to the offices now filled by election the office of Assistant Treasurer.'"

§ 110. Adjournment.

After the disposition of all business before the meeting, adjournment is in order. At any other time it would require a motion or unanimous consent to adjourn a meeting, but, at this stage of the proceedings, the president or chairman, after inquiring if there were any other business before the meeting, and receiving no response, would merely declare the meeting adjourned. Quite commonly a motion is made at this time to adjourn, but it is unnecessary.

The entry in the minutes would be as follows:

> "There being no further business for consideration, the meeting was adjourned."

Should, however, the adjournment not be *sine die,* or final but merely over to some future time, as, for instance, in order to obtain fuller data in regard to some matter before final action thereon, or to await the results of some official action in some important matter, such adjournment should be by motion, duly seconded and passed.

In such cases the entry in the minutes would be as follows:

> "Upon motion duly made and carried, the meeting was adjourned to Monday, January 19, at 10 A. M."

§ 111. Signing the Minutes.

As soon after the meeting as is convenient, and while its details are fresh in his mind, the secretary should take his notes and rough minutes and from them write up the proceedings of the meeting in the minute book. When completed, they should be signed on the lower right-hand side with his name and official designation. It is not essential that the signature of the presiding officer be also affixed, though it is customary, and of much advantage in event of any subsequent dispute as to the accuracy of the record. (See Chapter XIV on the general subject of Minutes.)

§ 112. General.

The proceedings outlined in the present chapter are formal, and where there is any possibility of dispute or difference of opinion amongst the stockholders of a company, every formality indicated should be carefully observed. Generally, however, and especially in small or close corporations, considerable laxity in the observance of formalities is practiced, and, where all interested concur, may be said to be allowable.

The object of formalities is to protect the stockholders against unexpected actions or unfair dealing; hence, if all the stockholders agree to dispense with any formality, no stockholder is injured thereby, and, in most cases, no one else would have a right to object. In this way the management of a small or close corporation may be made almost as simple as that of a partnership. The election of directors may be dispensed with, leaving the old board to hold over, or even the annual meeting itself may be omitted, and special meetings may be called at any time and place, and for any purpose, and without further notice than is entirely convenient.

It should be borne in mind, however, that any waiving of formality in corporate matters depends for its legality and efficiency upon the concurrence of every one interested; and in every case where this is done waivers should be prepared and signed by all interested parties. (For forms of waivers see "Calls and Waivers," Chapter XXXI.)

CHAPTER XI.

STOCKHOLDERS' SPECIAL MEETING.

(See Minutes " Stockholders' Special Meeting," Form 95.)

§ 113. Preliminaries.

The annual meeting is the only regular meeting of stockholders. All other meetings are special meetings. Such special meetings should only be called for some particular purpose demanding the immediate attention of the stockholders.

Before a special meeting can be legally held it must be called as the by-laws may provide, by the president, by the directors, or by a certain number of the stockholders themselves. It is for this reason that special meetings are frequently designated as " called meetings."

The call for a special meeting must specify the time, place and purpose or purposes of such meeting (see Forms 80, 81, 82, 83), and, after being signed by the proper parties, is handed to the secretary. It is then the duty of this official to see that every stockholder has due and timely notice of the meeting. If one single stockholder is not properly notified, he may have the proceedings at such special meeting set aside. Hence it is most important that the notices of special meetings be properly drawn and sent out in strict accordance with every requirement.

The notice must specify the time, place and purpose or purposes of any special meeting, and no business other than that specified in the call may be transacted at such meeting. (See Form 85.)

If the stockholders are not too numerous, and are disposed to expedite the business of the company, the best method of

calling a special meeting is by the use of the combined call and waiver. (See Form 77.) If this instrument is signed by all the stockholders, the meeting can be held without delay, without further formality and without any possibility of subsequent trouble in regard to the method of assembling the stockholders in such meeting.

§ 114. Opening the Meeting.

At the appointed time, as in the case of the regular meeting, the president, or, in his absence, the vice-president, or next officer in attendance, would call the meeting to order. If by any mischance none of the officers were present, or if the by-laws did not authorize the regular officers to act at stockholders' meetings, a chairman would be appointed; any one of the stockholders rising and moving that Mr. Henry Evans, or whoever the desired party might be, should act as chairman of the meeting. When seconded, the motion would be put to the meeting by its maker, and, if carried, Mr. Evans would take the chair and preside over the meeting. In the absence of objection thereto, he would appoint some one present to act as secretary of the meeting, or the secretary might also be appointed by motion.

As soon as the meeting was called to order, the secretary should lay before the presiding officer the order of business, which would be the same as for a regular meeting with the omission of the items not applicable.

The entry in the minutes would be as follows:

> "The stockholders of the Scott-Maynard Printing Company met in special meeting at the office of the Company, No. 15 Murray Street, New York, at 10.30 A. M., on Monday, January 19, 1903, pursuant to call and notice.
>
> "The President being absent, the meeting was called to order by Marshal Ingram, Vice-President of the Company, and, in the absence of the Secretary, Mr. Douglas Vail was appointed and officiated as Secretary *pro tem.*"

§ 115. Roll Call.

As in a regular meeting, the secretary should be provided with an alphabetical list of the stockholders (See Form 65) arranged for roll-call, and ruled with columns for shares present in the persons of their owners, shares present by proxy and shares absent. Upon request of the presiding officer, he would call the roll and announce the results to the president or chairman. If the shares represented in person and by proxy were sufficient to constitute a quorum, the presiding officer would so announce to the meeting and would then proceed to the next business in order.

It might be noted that the alphabetical list of stockholders required by statute for the annual meetings of stockholders in New Jersey and some other states is not required at special meetings, unless for the personal convenience of the secretary; any disputes as to the voting rights of those present being settled by direct reference to the stock book. For entry in minutes see Form 95.

§ 116. Proof of Call and Notice.

Upon request of the presiding officer, the secretary would then produce the original call for the meeting, duly signed; also a copy of the notice sent out pursuant to the call, with his certificate attached showing that such notice had been properly addressed and mailed to every stockholder the necessary number of days before the date of the meeting. These documents might be ordered received and filed as in the proceedings of the regular meeting, or might be ordered spread upon the minutes.

Where the meeting has been assembled by means of the call and waiver, this document, signed by all the stockholders of the company, should appear in full on the minutes and may be properly included by the secretary without instructions from either the presiding officer or the meeting. (See Form 91.)

§ 117. Special Business.

Unless so specified in the call and notice, the minutes of any previous meeting could not be properly considered at a special meeting. Hence, the particular business for which the meeting was called would be taken up at once. The presiding officer, or some one requested so to do by him, should state generally the purposes of the meeting, and make such explanations as might be necessary of the nature of the business to be transacted, and the conditions that required immediate action and justified the calling of a special meeting. Or the presiding officer might call upon the secretary to read the purposes of the meeting from the notice sent out, and then call upon some one familiar with the matter to explain it to the stockholders.

After such statement and explanation, and any discussion that might be necessary, some one interested would present a resolution covering the matter, and move the adoption of the resolution.

For example, the directors might have received an offer for the purchase of the entire property of the company with the proviso that such proposition must be acted upon at once. The directors would not have authority to close the matter, nor could it be held over until the next annual meeting; hence, if the directors considered the proposition a favorable one, the only course open to them would be to call a special meeting of the stockholders for its consideration. At the meeting, the matter would be fully explained and the advantages of the proposition pointed out. Then some one favorably disposed would rise and present a resolution authorizing the directors to effect such sale, and move the adoption of the resolution. Such resolution (See Form 41) should be drawn up in advance of the meeting, and be prepared with great care. If the resolution is seconded, it is then before the meeting, and the presiding officer should give an opportunity for its discussion. Usually, however, in matters of this importance, the minds of those present have already been formed, and, except in case of opposition, but little discussion is required.

§ 118. Disposal of Special Business.

A special meeting has no power to consider or act upon anything not specified in the call. In all matters specified in the call, however, it has the fullest liberty. It may consider, accept, reject, amend, limit or extend the scope of any resolution offered in such matters, or dispose of such resolution in any other parliamentary way desired. Usually, however, a special meeting is not called unless it is known that the proposed action can control a safe majority. In such case, a resolution will be offered and disposed of, with but little debate or delay, and the business of the meeting be brought to a speedy conclusion.

The entry in the minutes would be as follows:

> " The Chairman then stated that the meeting had been called to consider a proposition to sell the downtown plant of the Company, and explained the conditions which made the proposed sale advisable. After a brief discussion of the matter the following resolution was offered by Wm. B. Harter, who moved its adoption. Motion seconded by Mr. T. B. Mullaly.
>
> " ' Whereas, the Board of Directors of this Company has received a cash offer of thirty thousand dollars ($30,000) for the Murray Street Plant of this Company; and
>
> " ' Whereas, it will be to the business advantage of this Company to accept the said proposition and utilize the proceeds of such sale in the enlargement of the Company's Madison Avenue plant and in the general promotion of its business; Now therefore,
>
> " ' Be It Resolved, That the Directors of this Company be hereby authorized and empowered to sell the entire printing plant of this Company now located in the premises No. 15 Murray Street, New York City, for such consideration, not less than thirty thousand dollars ($30,000), and on such reasonable terms as may to said Directors seem advisable.
>
> " ' That the Directors of this Company be hereby further authorized and empowered to so use the proceeds of such sale in the enlargement of the Company's Madison Avenue plant and in the general promotion of its business as may seem to said Directors necessary and advisable.' "

§ 119. Adjournment.

No business may be brought up at a special meeting for discussion and action save that specifically mentioned in the call and notice. Under these circumstances, as soon as the particular business for which the meeting was called is disposed of, nothing is left but adjournment. This may be by motion, or the president may merely state that, no further business being before the meeting, it stands adjourned. The entry in the minutes would be:

> "There being no further business, the meeting was declared adjourned."

§ 120. General.

As has been said, where the signature of all the stockholders can be secured, special meetings are best held pursuant to call and waiver. Under such circumstances much less formality is necessary, and the range of the meetings is considerably extended without danger of the proceedings being later impeached by some discontented stockholder. Where the call and waiver cannot be used on account of the large number of stockholders, or the unwillingness of some to sign the instrument, every formality should be observed with care. Any omission might invalidate the actions of the meeting. It should be noted that the signature of every stockholder is required to make the call and waiver effective.

The *first meeting* of stockholders is merely a form of special meeting. In the absence of by-laws then existing, there are no provisions for special meetings, and the first or organization meeting is almost necessarily assembled by call and waiver, signed by all those entitled to be present at the first meeting of the new company. The same rule prevails in the first meeting as in other special meetings, that all business to be transacted thereat must be mentioned in the call.

The order of business at a first meeting differs somewhat from the regular order as the company is without organization of any kind, and the conditions are such as would prevail at no other meeting. For the proceedings of a first or organization meeting see Chapter XXXIV.

CHAPTER XII.

DIRECTORS' REGULAR MEETING.

(See Minutes "Regular Meeting of Directors," Form 99.)

§ 121. Preliminaries.

The secretary's corporate calendar (see § 155; also Forms 151, 152) will indicate the proper date when notices of regular meetings of the directors must be sent out. (See Form 90.) The number of days before such meeting that such notices are to be sent out is fixed by the by-laws. After these notices are duly mailed, it only remains for the secretary to prepare a copy of the order of business for the use of the president. (See Form 63.) It will facilitate the proceedings, however, if the secretary prepares in advance any motions or resolutions that are likely to be needed at the meeting.

§ 122. Opening the Meeting.

At the appointed time the president, or, in his absence, the vice-president, would call the meeting to order. (See § 57.) Should both these officials be absent, then the next ranking officer, *if a member of the board,* would officiate. Should this duty devolve upon the secretary, it would be advisable for him to call the meeting to order and then request some other member of the board to act as president. With the consent, or in the absence of any expressed objection from those present, this would be entirely proper and would leave the secretary free to attend to his own proper duties, which he could perform much better than could any temporary appointee. Or, on request of the secretary, a motion might be made that some

member of the board named in the motion act as temporary president in order to leave the secretary free to attend to his own duties. Such motion, if seconded, would be put to the meeting by the secretary, and, if passed, the member named would at once take the chair, and the secretary would return to his own duties.

Should no officer be present, or should none of the officers present be members of the board, it would be proper for any member of the board to call the meeting to order, and, a motion being made and seconded that some one present act as chairman of the meeting, to put the motion, and then yield the chair to the party so appointed.

As soon as the meeting is called to order, the secretary should see that the president is provided with a copy of the order of business. No formal roll-call is necessary, but the secretary should note the names of those present so that, provided a quorum were present, the records would show that fact. Should there be no quorum, the meeting could transact no business, but must either adjourn *sine die,* or adjourn over to another day, when possibly a quorum might be obtained. When such adjourned meeting is again assembled, any business may be transacted thereat that might have been acted upon at the original meeting. (See § 128.)

§ 123. Proof of Notice.

Formal submission of proof of notice of a directors' meeting is not necessary unless called for by the presiding officer or some member of the board. For his own protection, however, and as evidence in case of any future dispute in regard to the matter, the secretary should preserve a copy of the notice as sent out and endorse upon it the fact that it was duly mailed, on the date given thereon, to the last known address of each member of the board. This endorsed notice should be filed for possible future reference. Also the fact that due legal notice of the meeting was given should be noted in the minutes.

The appropriate entries for the minutes will be found in Form 99.

§ 124. Reading of Minutes.

As a matter of due parliamentary procedure, any unapproved minutes of the preceding directors' meeting, or meetings, should be read and disposed of before any other business is considered. Sometimes, however, when time is pressing, the president will direct that the reading of the minutes be dispensed with, or a formal motion will be made that the reading of the minutes be omitted. Whatever action is taken should appear in the minutes of the meeting. It is always preferable that the minutes of the previous meeting should be read and disposed of at the next following meeting, and the secretary should endeavor to have this done. When the minutes are once read and approved, the secretary is relieved from personal responsibility as to their correctness.

After the reading of any minutes, corrections are in order. If any are suggested and no one objects thereto, the president will instruct the secretary to make such corrections. If objections are offered to any suggested correction, the matter is decided by vote of the board. If there are no corrections, or after any corrections have been made, the minutes may be approved by formal motion, though usually the president will merely say, "If there is no objection, the minutes as read (or "as corrected") will stand approved," and no other action is necessary. (See § 140.)

It should be noted that the minutes of stockholders' meetings would not be read at directors' meetings, unless by special request or motion; nor, if read, could they be approved. As far as minutes are concerned, each body is entirely separate and distinct, and, except for purposes of information, have nothing to do with the other's minutes. Sometimes separate books are provided for the minutes of the stockholders' and the directors' meetings, though the general practice is to have but the one book, in which all minutes are entered.

§ 125. Reports.

After disposal of the minutes, the president should call for any reports; from officers first, and then from committees, if any exist. When a report is made, it should be disposed of by motion, but if this is not done the secretary should inquire of the president as to the disposition of the report. If there were no objections thereto, the president would direct that the report be received and filed. It is, however, more courteous toward those making the reports to receive and file such reports by formal motion than to leave this to the president.

Verbal reports are often made by officers when the matters to be reported, or the circumstances, do not demand the more formal written report. In such event the secretary should give a synopsis of the report, or the purport of it, as near as may be, in the minutes.

When a report is ordered received and filed, any matters of special importance therein, or matters that may be acted upon later in the meeting, should be noted in the minutes, the secretary using his discretion as to what is necessary to make the minutes complete and intelligible.

§ 126. Unfinished Business.

It usually rests with the secretary to bring up any matter of business left over from preceding meetings and needing attention. This is one of the important duties of the secretary and a matter that should be looked after by him with much care.

§ 127. New Business.

New business may be brought up through the president, who may mention any matters requiring attention that have come to his notice, or such new business may be introduced by members of the board. These latter usually present any matters in which they are interested, with some explanation or statement, and then make a motion in regard thereto, or move the

passage of some appropriate resolution. Members should always, when possible, reduce motions and resolutions to writing before presenting them, as to do so puts the whole matter in much clearer shape, and makes the secretary's task much easier. If motions and resolutions are not written out in advance, the secretary must get them down in the best shape possible. This is perhaps the most difficult of the secretary's tasks.

In the absence of any regulations in regard to the matter, the president has authority to require all motions and resolutions to be reduced to writing before being presented to the meeting. In all matters of importance, or of any complication, he should insist upon this being done.

§ 128. Adjournment.

When the business of the meeting has been finished, or when, for any reason, the board cannot longer continue in session, an adjournment should be taken, either absolutely, which terminates the meeting, or to some future time. If the business of the meeting is unfinished and is of importance, such meeting should be adjourned to the next day on which the members can be present.

A meeting adjourned in this manner is, on reassembling, the same meeting, and does not require any notification to the members of the board. If, however, the adjournment is over some days, the matter is likely to be overlooked, and it is advisable that the secretary send out an informal notice of such adjourned meeting. Also, if any members of the board were absent from the original meeting, it would be courteous as well as advisable to give them notice of the adjourned meeting.

§ 129. General.

In many corporations the regular meetings of the board are held at long intervals, or where fixed at more frequent intervals are often omitted. This may be because there is little

business to transact, or because the appointment of an executive committee relieves the board of the necessity of frequent meetings, or because the corporation being a close one, with all those immediately concerned working together in the business of the company, most matters are settled as they arise by informal conference. Usually under such conditions meetings are only held when some matter comes up requiring the formal action of the directors.

There is no valid objection under such circumstances to the infrequency of directors' meetings. It would, however, be better on all accounts in such cases to make the by-laws conform to the practice of the directors, and arrange the regular meetings at such distant intervals that they would be held and regularly carried through. Special meetings might be called at any time should any immediate necessity arise for action of the directors.

CHAPTER XIII.

DIRECTORS' SPECIAL MEETING.

(See Minutes "Directors' Special Meeting," Form 97.)

§ 130. Preliminaries.

The preliminaries to a special or called meeting of the board of directors are the call (See Form 84) and the notice (See Form 89) to all the members; or the call may be combined with a waiver of notice. (See Form 78.) The formalities of the call should be prescribed in the by-laws, and, when the call is properly drawn, signed by the president or by the requisite number of directors, and handed to the secretary, the meeting is duly authorized and it becomes the duty of that official to notify the members.

In all close corporations, and where the members are readily accessible, it is the better plan to employ the call and waiver of notice. This obviates any possible question as to the legality of the notice given for any such meeting.

If all the members of the board of directors can be gotten together, a special meeting may, by unanimous consent, be held at any time, and without formal call and notice of any kind. In such event, the minutes should show very clearly that all of the members were present, and agreed to or participated in such meeting. A member's presence and participation in any meeting would estop him from any legal right to object to informalities of notice or procedure in connection with such meeting. (See § 136.)

§ 131. Opening the Meeting.

The president, or, in his absence, the vice-president, or next officer in rank who may be present, if a member of the board, will call the meeting to order, and the secretary will lay the order of business before him. The proper entries in the minutes will be found in Form 97. The secretary will note the names of those present, so that the record of the meeting will show a quorum present, if such is the case, and the members composing such quorum.

§ 132. Proof of Call and Notice.

In a special meeting it is most essential that the minutes shall show that the meeting was properly called and that all the members were notified. The call and notice, or the call and waiver of notice, should be entered in full. Without the due observance of these preliminaries, unless legalized by the presence and participation of all the directors (See § 136), no legal meeting would be possible, and the fact that the formalities relating to the call and notice have been duly observed should be clearly shown by the minutes.

Regular meetings are provided for in the by-laws, owe their legality to that fact and do not depend upon calls, waivers or notices. Notices are, it is true, usually provided for in the by-laws, but as a matter of convenience for the members, not as a legal requirement. With a special meeting, however, the due call and the sufficient notice to each member are the basis of the meeting, and are absolutely essential to its legality.

§ 133. Special Business.

Minutes of previous meetings should not be approved at a special meeting, unless such action was specified as one of the objects of the call. The special business, as set forth in the call, should be presented by the presiding officer, or he should call on the secretary or some member to introduce it. If a resignation or some proposition is to be brought before the

meeting, it should be read or presented first, and then acted upon by a properly phrased motion or resolution. In some cases the special business would be best brought forward by the introduction of a resolution embodying the proposed action.

§ 134. Disposal of Special Business.

When a motion or resolution disposing of the business for which the meeting was called has been seconded and is before the meeting, the matter is open for discussion, and the proposed action is subject to amendment, reference, acceptance, rejection or any other parliamentary disposition. The minutes should show clearly what is done, as well as the final disposition of the matter.

§ 135. Adjournment.

If all of the special business mentioned in the call has been disposed of, the meeting will be adjourned absolutely. If, however, it has not been decisively terminated and more time is needed, an adjournment may be taken to the next day or to some later day. Sometimes an absolute or "*sine die*" adjournment is taken as a convenient way of dismissing the matter. In such case a new meeting would have to be called if it was desired to take up the matter again.

§ 136. General.

If all the members of the board of directors are present at, or participate in, or agree to any meeting, no matter how called, it becomes then a "consent meeting," and any business may be brought before it. In New York this has been enacted into statute law. Elsewhere it would be good under the general principles of corporation law.

Members of the board of directors cannot, however, agree to a course of action without meeting. The signing of a paper by all the directors authorizing some particular action has no legal effect. The reason for electing a board is that they may

meet together and confer, and, after due consultation, decide upon the policy of the company. It is only as a body that they have authority, and only as a body in lawful meeting assembled that they can act. Frequently the members of the board will, when a meeting is inconvenient, as individuals, assent to some action, or direct the officers to take some action, and agree to ratify it at the next meeting. When such action is so ratified it becomes the lawful action of the board; but it derives its legality entirely from the ratification, and in no measure from the previous irregular authorization. The officers or others acting before ratification do so at their own risk, and, in case the ratification was not made, would be responsible for their action.

CHAPTER XIV.

MINUTES.

§ 137. The Minute Book.

The minute book of a corporation, properly kept by the secretary, is legal evidence of the proceedings at the meetings of stockholders and of directors. This book should be retained in the custody of the secretary, and all entries should be made by him. Any director has the right to inspect the minutes at any suitable time. A stockholder, as a general rule, does not have this right.

The minute book itself is usually a blank book of the style termed " Record " by stationers. It may be had at any price, from the plainly bound book at fifty cents or less up to elaborately bound and specially ruled books costing many dollars. In the simplest form it is a blank book of convenient size, ruled for writing, and usually with a single or double vertical red line setting off the left hand margin. For the usual small corporation, a book containing one hundred pages would be ample. A book 8½ by 13 inches will be found convenient. It should consist of a good quality of ledger paper and be substantially bound.

For the form of entries see Forms of Minutes, 91 to 99. Marginal entries, where necessary, are frequently made in red ink, and the first words of the text and specially important statements are sometimes underlined in red.

Minutes are not infrequently written with the typewriter on thin paper and then pasted into the minute book. The loose leaf minute book, in which the pages may be written

with the ordinary typewriter and then inserted, is also used to some extent. These arrangements are, however, open to objections, as substitutions and alterations are easy. The minutes of a company, when matters of importance are considered, are better kept as books of account are kept; written with pen and ink, or with a book typewriter, and with the entries succeeding each other in such manner that no later additions or insertions are possible. Kept in this manner and properly authenticated, the minute book is competent evidence in case of litigation as to the proceedings at the company's meetings; otherwise its testimony might be open to question.

§ 138. Contents of Minute Book.

The first pages of the minute book should contain a copy of the charter or certificate of incorporation of the company. This may be the certified copy received from the Secretary of State, bound or pasted into the minute book; or, equally good, a careful and legible copy made by the secretary directly on the first pages. Following the charter should come the by-laws of the company, likewise carefully and legibly copied, and beginning at the top of the first page after the charter. The by-laws should be followed by a certificate signed by the secretary and stating that, as written, the foregoing by-laws are a true and correct copy of the by-laws adopted at the meeting of the stockholders of the company, held at such a time and place. (See § 39; also Form 127.)

Two or three pages next succeeding the by-laws should be left blank for the entry of any amendments. Then should follow the minutes of the first meeting of stockholders, then the proceedings of the first meeting of directors, and thereafter the minutes of stockholders' and directors' meetings in due sequence as held. Each meeting should begin at the top of its proper page, and no blank pages should be left between the records of the different meetings.

In large corporations there is some advantage in having separate minute books for the proceedings of the stockholders'

and directors' meetings. There is, however, no good reason for so doing in the case of the smaller corporations, and usually the minutes of all meetings are written in the same book, in order of date, without any attempt at separation of the minutes of the two bodies beyond the distinctive headings of such minutes.

§ 139. Forms for Minutes.

The minutes given in the Fourth Part of this work are in conventional form. There is, however, no set form nor absolute rule as to how the minutes of a meeting shall be recorded, and any clear statement in good English is legally sufficient. Usually, however, the conventional arrangement will be found clearest and most concise, and should be followed.

It may be noted that a verbatim report of the proceedings at any ordinary meeting is the last thing desired. A record of what is done, not of what is said, is the desideratum, and such record should be as concise and accurate as possible.

During the progress of a meeting many letters, reports, contracts and other instruments are likely to be presented. In some cases the secretary is instructed to enter certain of these upon the minutes, but in other cases it rests in his discretion whether these documents be entered in full, in part, or be entirely omitted. Generally it is sufficient if they be filed and preserved, and only such reference made to them in the minutes as will suffice to identify them, or explain their connection with the action taken. If, however, the matters to which they relate are important, they might well be entered in full, or, as it is phrased, "spread upon the minutes." When this is done the minutes constitute a complete record in themselves, which is sometimes a matter of much importance.

The minutes should be written up in permanent form as soon after the meeting as possible, and while its events are fresh in the secretary's mind. If he is in doubt about any part of the proceedings, he may ask assistance from the president or members present at such meeting. He, however, must take

the final responsibility of making the authoritative record which he signs.

The secretary should spare no pains to secure accuracy in the minutes, for they are the legal evidence of the action taken at the meeting recorded, and the authority for any action of the officers required thereby; and they will probably be referred to and acted upon before the formal approval of the stockholders relieves the secretary from further responsibility.

As soon as the minutes are written up, they should be signed by the secretary with his official signature; that is, with his name followed by his title, "Secretary." It is customary to have the presiding officer also sign the minutes officially, and this, while not actually essential, is advantageous, acting as a check upon the secretary's work, and the presiding officer thereby assuming with the secretary the responsibility for the correctness of the minutes.

The minutes of a stockholders' meeting will probably not be passed upon until the following annual meeting, when they will be read, and, if no objections are offered, approved. If approved, no record need be made save the statement in the minutes of the last held meeting that the minutes of the previous meeting were read and approved. Sometimes, as a matter of convenience, the secretary will endorse at the bottom of the minutes, after approval, "Read and approved at the Annual Meeting, January 24th, 1903," or whatever the date may be. (See § 106.)

§ 140. Amendment of Minutes.

Should the minutes as read by the secretary be objected to, but such objection be on some immaterial or obvious point, such as the initial of a name, or a wrong numeral in the date, or a statement that the minutes were of a directors' instead of a stockholders' meeting, the presiding officer would simply direct that the proper correction be made, and the secretary would make the necessary changes without formality.

Should the error be more serious, the correction might be ordered by formal motion, or, in the absence of objection on the part of those present, might still be directed by the president or chairman. In such event, the minutes of the meeting then in session should show exactly what correction was directed and in what minutes. In the corrected minutes the correction should appear in red ink, and a marginal reference should give the date of the meeting at which such correction was directed. A single red ink line might be drawn through any part ordered stricken out, and any correction interlined, but no erasure should be made in any case, as the corrected minutes should show both the error and the correction.

Sometimes it happens that when the minutes are read there are those present who, having kept no record of the previous meeting, really forget what was done and imagine that the secretary has made grave errors in the record. These members may be entirely wrong in their recollection of what happened; or, as sometimes occurs, the secretary actually may have made serious misstatements in his records. In either case, any objecting stockholder (or director, if at a board meeting) may move that certain portions of the minutes be stricken out and other matter inserted. Whether right or wrong, if a majority of those present at the meeting vote with the objecting party, the motion is passed and the secretary must carry it into effect. In such case that officer would draw red lines through the part ordered stricken out and interline in red ink the matter ordered inserted. In the margin he would then make an entry referring to the date and meeting at which such change was ordered. This then shows the whole matter; that the record was made in one way, and was, at a later date, ordered changed. The minutes of the meeting at which such change was ordered would also give a complete statement of the matter.

§ 141. Taking Proceedings.

If the presiding officer of the meeting will insist that motions and resolutions be reduced to writing before being

considered, a few helpful notes made in proper sequence will enable the secretary to write up an accurate record of such meeting with but little difficulty. If a programme of the meeting has been made out in advance, with convenient spaces between the items, very few notes will suffice to preserve a record of everything that happens. All papers presented to or used at meetings should be filed for future reference. (See § 139.)

It should be remembered that minutes are not to be encumbered with things that are said, but are intended to be a record only of those that are actually done. A motion or resolution that is put before the meeting should be noted, and its disposition, whether passed or rejected, should be recorded; but, speaking generally, the debate and discussion should not be set down.

It sometimes happens that a stockholder or member, opposing some proposed action, wishes his objections or protest recorded in the minutes. If his objections are pertinent and not too lengthy, this should usually be done; but the presiding officer, not the secretary, would decide the matter, and the secretary should be guided by the president's directions. The objecting member will sometimes file his objections or protest in writing, and in such case the document should be received and filed, and the fact that it was received and filed would be noted in the minutes. In some cases it is necessary for a member of the board to have his dissent noted in order to avoid liability. In such case he has the right to demand its entry upon the minutes.

§ 142. Motions and Resolutions.

By means of motions and resolutions the meeting expresses its will. The two are of the same force, though a resolution is usually more formally drawn up and is employed for all the more important matters. Either a motion or resolution, unless merely a routine matter, such as to adjourn, lay on the table, etc., should be reduced to writing by the member by

whom it is introduced. The matter is apt to be put in much better shape under these circumstances than when merely oral, and error on the part of the secretary is prevented. When possible, in matters of any importance, the secretary should note who makes a resolution or motion, and who seconds it when made. If, however, the presiding officer decides that a motion or resolution is properly before the meeting, and puts it to the vote, the fact that the mover and seconder are not known does not affect the validity of the action taken thereon, or the force of the action, if favorable.

Where the secretary knows that certain matters are coming up for consideration, he can often facilitate the proceedings materially by preparing the necessary motions or resolutions in advance. (See Chaps. XXIII, XXIV.)

§ 143. Outline Minutes.

For the first meeting, or the annual meeting, or any other meeting where the action is largely formal or predetermined, programmes and outline minutes may be prepared in advance, and will be found not only to facilitate the proceedings, but to assist the secretary materially in securing a full, accurate record of the same. (See Form 66.) Blanks are left for the names and details, which may be filled in as the meeting progresses. Anything appertaining to a meeting that can be done in advance renders the work of the secretary at the time of the meeting easier and likewise more accurate.

§ 144. "Cut and Dried Minutes."

Under modern corporate procedure, many formal meetings have to be held in localities distant from the residence of the parties in interest. Of this character are the annual meetings of most "non-resident" New Jersey corporations, which must be held in the New Jersey office of the company. Also there are many corporations in which the whole, or the greater part of the stock is held by combinations, and the corporations

themselves only hold such meetings as are essential to maintain their legal existence. In these and many other cases, the only necessity for meetings is to give the proper legal expression to matters that are already determined; and it is possible to write out the entire minutes in advance.

Under such circumstances the proceedings of the meeting are simple. A controlling stock interest, usually in the shape of proxies, is sent or taken to the place of meeting; if the regular officers are not present, or are not authorized to act, officials for the meeting are appointed at the time, the prepared minutes are read over and agreed to, the meeting is adjourned, the accepted minutes returned to the secretary, who copies them into his book of minutes, and the whole matter is done. Such a "cut and dried" meeting is not always pleasing to minority stockholders, but the recording of its proceedings is a very simple matter for the secretary.

CHAPTER XV.

CORPORATION BOOKS.

§ 145. Treasurer's Books.

The term "corporation books" is usually intended to indicate those books, peculiar to a corporation, which are kept by the secretary. The treasurer's books, on the other hand, are simply the books in which are kept the corporation accounts, and are the same as in any other business, with the possible addition in large corporations of a dividend book or dividend ledger. There is nothing peculiar in the method of keeping the treasurer's books. Any standard work on book-keeping will give specific directions for changing the books of a partnership into corporation books, for keeping these latter thereafter, and for the apportioning of dividends. The number, character and complexity of the books and accounts kept by the treasurer of a corporation depends upon the nature of the business, and would be practically the same, whether the business were conducted by a firm or a corporation.

§ 146. Secretary's Books.

The books peculiar to a corporation the keeping of which falls upon the secretary, are few or more, according to the needs of the company and the requirements of the law of the state of incorporation, or of the state of domicile. They are usually the minute book, stock certificate book, transfer book, stock book and stock ledger.

The minute book has already been considered in the preceding chapter. The other books mentioned will now be treated of in the order given.

§ 147. Stock Certificate Book.

The stock certificate book is usually made up of from fifty to five hundred stock certificates in blank, ready to be filled out for issue, which, in serial order and with their corresponding stubs, are bound in book form. (§ 43.) These certificates are printed, lithographed or engraved, on a durable paper, and are usually much adorned with more or less artistic ornamentation. On the left of each certificate is the stub on which, at the time the certificate is issued, are noted all the important facts in regard to its issue. The stub is usually separated from its certificate by perforations, so that when the certificate is filled out for issue it may be readily detached, leaving the stub in the book as the secretary's memorandum of the issued certificate. (See Forms in Chap. XIX.)

The stock certificate book is usually prepared at the time of the organization of the company, or sometimes even before, so that as soon as the issue of stock is authorized there may be no delay on account of the absence of certificates. The board of directors have power to prescribe the form of stock certificates and to authorize their issue. In a very small or a "close" corporation, fifty to one hundred certificates are usually amply sufficient for the needs of the company. In the larger corporations, or in smaller corporations where the stock is active, one or more larger books are usually prepared, each containing up to 500 shares. For a very active stock a number of volumes of this size are frequently required. In such case the serial numbers run up regularly from 1 to 500 in the first volume; 501 to 1,000 in the second; 1,001 to 1,500 in the third; and so on. The binding of the stock certificate book should be durable and lasting.

Preferred stock, if issued by a corporation, is usually bound in a separate volume, though if only a few certificates are required it is sometimes bound up in the same book as the common stock, but as a separate division of such stock certificate book. The numbering of preferred stock is also entirely separate and distinct from that of the common stock.

In case a new corporation desires to issue elaborately engraved or lithographed certificates, and its officials do not wish to delay the issue of stock until such certificates are prepared, cheap temporary receipts or certificates are issued, exchangeable for the permanent certificates so soon as these latter are ready for delivery. (See Form 8.) Sometimes the delivery of the permanent certificates is deferred for a considerable time on account of the necessary delay in preparation, or to temporarily save expense, or for some other reason, and in such event temporary certificates are issued and used until the permanent certificates are ready. The form of these temporary certificates is the same as that of the permanent certificates, but they are usually marked "Temporary Certificates," and the statement is printed upon them that they will be exchanged for permanent certificates as soon as these latter are ready to be delivered.

When the issue of stock of a new corporation is directed, the secretary fills out and seals each of the certificates to be issued. At the same time he fills out the stub of each certificate, so that such stub contains a complete record of the issued certificate. The secretary or the treasurer, as provided by the by-laws, signs the certificate; the president also affixes his signature, and the certificate is ready for issue. On the stub of such original stock, under the heading, "Issued against surrendered Certificate No. ——," should be entered the statement, "Original Issue." If such stock is issued for property and is full paid, to this entry might be added "Full paid for property." (See Form 14.)

On the back of each certificate of stock is printed a blank form of assignment and power of attorney. (See Form 17.) When the stock represented by a certificate is to be transferred, the owner usually merely signs this form and has his signature witnessed by any competent person, leaving all the blanks in the body of the assignment to be filled in later. This is called an assignment in blank. In this condition the certificate may

pass from hand to hand and be sold any number of times without change or addition to the assignment. (See § 44.)

Stock so assigned still stands on the books of the company in the original owner's name, and this original owner is still the stockholder of record and has the legal right to vote and draw dividends, though his stock may have been sold months before. When, however, some holder of the certificate wishes to perfect his title and make himself a holder of record, he fills in his own name as assignee and surrenders the certificate to the secretary or transfer agent for transfer. If the signature to the assignment is all right, and there are no reasons for suspecting any irregularity, the transfer is made as a matter of course. The secretary or transfer agent writes his own name in the blank left for the name of the attorney in the assignment, records the transfer upon the proper company books, and issues a new certificate in the name of the assignee. Before delivering the new certificate the secretary should require its owner to sign the receipt therefor on the stub.

Frequently the owner of stock will sell a portion of the stock represented by a certificate, and, in such case, the assignment on the back of the certificate will be filled out only for the number of shares transferred to the newcomer. For instance, if a stockholder were possessed of one hundred shares of the company stock, all included in a single one-hundred-share certificate, and wished to sell twenty shares out of his hundred, he would fill out the assignment for twenty shares only.

In such case the owner of the hundred shares would himself probably bring or send in his certificate to the secretary and instruct him to make out two new certificates, the one for twenty shares in the name of the new owner, the other for eighty shares in his own name. The secretary would then cancel the old certificate, issue the two new certificates in accordance with the directions, and deliver both, unless he had express instructions from the original owner to the contrary, to this original owner, who would then make the delivery of the twenty-share certificate at his convenience.

Another and better method, whenever precaution is desirable, is for the original owner to take out both certificates in his own name and then assign the twenty-share certificate to the new owner, leaving this latter to bring in the assigned certificate and have a new certificate issued in his own name. In this case, should the sale fail of consummation, the original owner would still have his certificate made out in his own name, whereas had it been made out at once to the supposed purchaser it would be in the name of this expected purchaser, and, unless the real owner could procure the assignment of this other party as a matter of courtesy, he might have much trouble in getting the certificate back into his own name.

The secretary or officers of a corporation cannot refuse to make a transfer of stock where all proper requirements have been fulfilled; but if there is any doubt as to the authenticity or correctness of the assignment, or as to the title of the party presenting the certificate, or as to any other material matter, the secretary has the right to delay the transfer for a reasonable time in order to communicate with the former holder or take such other steps as he may deem expedient. If the party demanding the transfer is a stranger, the secretary may require identification, or, if there are reasonable grounds for doubt as to the real ownership of the certificate, may require satisfactory evidence thereof. If, after due investigation, there still remains doubt as to the propriety of the transfer or the ownership of the certificate, or if there be conflicting claims, the secretary may properly decline to act until instructed by the board of directors, and the board of directors, if in doubt, may decide to take no action until the matter has been settled by litigation.

When a transfer has been made and a new certificate issued, the surrendered certificate should be canceled by cutting, punching or scratching out the signatures, and by writing or stamping across the certificate in red ink the word " Canceled." This is done to prevent the certificate from being used for fraudulent purposes in case it were stolen or came otherwise

into the hands of improper parties. After cancellation, the certificate is gummed to the stub from which it was originally taken, the proper entries are made upon the stub (See Form 13), and, as far as that certificate is concerned, the matter is closed. A surrendered certificate should never be reissued or again put in circulation, under any circumstances.

In corporations where the secretary receives no regular salary, or in cases where there are many transfers of stock, the secretary may be authorized by the board of directors to charge a small fee for transfers, usually varying from ten to twenty-five cents for each certificate issued. This is sometimes a very convenient requirement, compensating the secretary for the time and labor involved, and tending to restrain numerous small or unnecessary transfers. (See §§ 43, 44.)

§ 148. Transfer Book.

The transfer book is composed of a series of blank transfers or assignments bound up together. The general form of these transfers may be seen by reference to Form 145. They are intended to be filled out and signed by the owner of stock, or his duly authorized attorney, whenever the actual transfer of stock sold or otherwise disposed of by him is made upon the books of the company. Such transfers are designed to be the secretary's authority for the issuance of the new certificates of stock to the assignee in place of the old certificates surrendered.

By reference to the assignment on the back of a stock certificate (Forms 17 and 18) it will be seen that the assignment of the transfer book is merely a duplication of that on the stock certificate, with the power of attorney omitted. The assignment on the certificate is a sufficient transfer of the stock sold, and, upon surrender of the old certificate, would alone fully justify the secretary in issuing another certificate in the new name. For this reason many of the smaller corporations never keep a stock transfer book, relying upon the stock certificate book, with its stubs and canceled certificates, for the authorization and record of transfers. In New Jersey, how-

ever, the statutes require every corporation to keep a transfer book.

While the stock certificate book, properly kept, is, without the transfer book, legally sufficient, it does not give the compact, convenient record that the transfer book does, and for this reason this latter book is kept by most large corporations and by many of the smaller ones. Where kept at all, every transfer should be entered in the transfer book in due form and in proper order.

Where the transfer book is used, the transfers are signed by the party making the transfer, or by his duly authorized agent. Should the owner of the stock to be transferred come in person and sign his transfer in the stock transfer book, there would be no necessity for his signature to the assignment on the back of his stock certificate. In perhaps ninety-nine cases out of a hundred, however, the owner of the stock signs the assignment on the back of his certificate, usually leaving the name of his attorney to be filled in later by the secretary of the company when the certificate is presented for transfer, and the attorney so designated signs the transfer in the book. (See § 44; also Forms 17, 18, 145.)

The larger corporations usually appoint special transfer agents and registrars, whose duties are to supervise and register the issue and transfer of stock. The transfer agent supervises the issue and transfer of stock and countersigns each certificate as evidence that it is properly issued, and, in the case of transfers, that the transfer has been properly made. The registrar keeps a record of all stock issued and countersigns each certificate as an evidence that it is rightfully issued and duly recorded. Frequently the functions of both transfer agent and registrar will be filled by one person or institution, usually by a trust company. The appointment of a competent transfer agent and registrar prevents the possibility of any over-issue or other irregularity in the issue of stock, inspires confidence among the stockholders and relieves the officers of the company of a heavy and onerous responsibility.

§ 149. Stock Book.

The stock book and the stock ledger are practically, and should be, one and the same book, ordinarily kept under the title, "Stock Ledger." In New York, however, the statutes provide specifically that a stock book shall be kept, containing the names, alphabetically arranged, of all the stockholders, their places of residence, the number of shares held by each, the time when each one became the owner of the stock held by him, the amount paid thereon, from whom such stock was received and to whom transferred. A properly arranged stock ledger would, as a matter of course, contain all the more important of these items, but to comply with the letter of the New York law numerous blank books have been devised, generally clumsy, laborious to keep and unsatisfactory when kept. These books are usually arranged as a combined stock book and ledger, with stock ledger columns following the stock book entries, in order to avoid keeping an extra book, but even in this form they are far from ideal.

The smaller corporations, with few stockholders, may, with advantage, use a form of stock book so designed that it can be bound in the same covers with the stock certificates, thereby saving the multiplication of books. Form 146 illustrates a combined stock book and ledger that, while giving an efficient ledger record of the stock held by each stockholder, also contains all the items required by the New York statutes. (See § 46, Stock and Transfer Books.)

§ 150. Stock Ledger.

The stock ledger is kept to show the number of shares of stock received and transferred by each stockholder and the balance at any time to his credit. When he receives stock he is credited with the number of shares acquired; when he parts with stock he is debited with the number of shares sold. The balance, if any, will always be on the credit side and will show the number of shares upon which the stockholder is entitled to

vote and draw dividends. A trial balance may be taken from time to time between these credit balances and the number of shares outstanding as shown by the open stubs of the stock certificate book. The stock ledger is kept by the secretary and must not be confused with any book of like name kept by the treasurer to show payments of subscription instalments or the apportionment of dividends. (See Form 147.)

The stock ledger can readily be made to answer all the requirements of the New York stock book, so that it will serve the purposes of both books. The form given (Form 147), if alphabetically arranged, would answer these requirements. Such a book would also comply with the demands of the New Jersey law, which provides that "the stock books" must contain the names and addresses of the stockholders and the number of shares held by each.

§ 151. General.

In New York, a stock book containing the entries required under that head by § 29 of the Stock Corporation Law (See § 149) must be kept. This is the only corporate book specifically required by New York laws. The other corporate books are kept as a matter of convenience. In New Jersey the laws require that a stock book, which is generally understood to be a stock ledger, and a transfer book, shall be kept in the state office of the corporation.

Under the provisions of the New York law, the stock book must be kept open for the inspection of stockholders and judgment creditors for at least three business hours each day. Under the laws of New Jersey, "the transfer books" and "the stock books" are to be open to the inspection of stockholders during the usual hours for business. In both states penalties are provided for any neglect or refusal to exhibit such books to parties entitled to their inspection. (See § 46.)

CHAPTER XVI.

SUNDRY DUTIES OF THE SECRETARY.

§ 152. Execution of Contracts.

The secretary has no power by virtue of his office to bind the corporation by contract. Should he attempt to do so, the company might either ratify such contracts by direct action or by acceptance of their terms, or might reject them and refuse to be bound thereby. It should be noted, however, that if the company has habitually transacted its business through the secretary, or has given into his charge some portion of the corporate business, it will be bound by any contracts he may make within the scope of such employment. Also the corporation may specially authorize the secretary to enter into and execute for the company any particular contract, though usually in such matters the secretary is required to act in conjunction with one or more of the other officers of the company. (See § 85.)

The secretary usually has the seal of the company in his sole charge, unless otherwise provided by charter or by-laws, and ordinarily should not let it go out of the company's office. He should affix it to all such corporate instruments as require sealing. The general rule on this point is that all instruments that require a seal when executed by an individual require the corporate seal when executed by a corporation. It is quite customary, however, to use the corporate seal on all formal corporate instruments. (See § 97.)

When the secretary is authorized by usage, or by resolution of the directors, to execute a contract, the instrument should

be made out in the name of the corporation, and the signature should be the full legal name of the corporation, followed by the secretary's official signature. (See Form 103.)

The name of the corporation should always appear. A promissory note signed simply, "Wilson M. Barnes, Secretary," would make the secretary personally responsible, and might require proof of its use and purpose before the corporation would be bound.

Where the secretary signs the instrument in his official capacity, and the seal is also affixed, an attestation of the seal is not necessary. If, however, the secretary does not sign the instrument, he should attest the seal. (See Form 104.)

Where a corporate instrument is to be acknowledged, the notary public should not be an officer or stockholder of the company. (See Chap. XXXVII.)

§ 153. Reports and Statements.

Reports are usually required of a company by the laws of the state in which it is incorporated. If the company is doing business in another state, other reports will have to be made in this state of domicile as well. These reports usually have to be made by designated officials of the company, or some two of them. Even when it does not devolve upon the secretary to make out reports, he should note the date for each on his corporate calendar and remind the proper officer, or officers, at the time when such reports must be made out and filed. Financial reports would naturally be made out by the treasurer, but other reports would usually require to be prepared, if not executed, by the secretary. Blank forms for all required reports are usually furnished by the authorities to whom they are to be made, or if not, can, in most cases, be secured from any law stationer.

§ 154. Tax Reports.

Tax reports, as made out by the secretary or treasurer, require great care in their preparation. In New York it should

be remembered that corporations are entitled to certain exemptions, reductions and allowances from the local taxes. In many of the other states this also holds true. It is not possible within the limits of the present work to go into this matter, but it is important that the subject of taxation be given careful attention and all rightful deductions secured. As compared with firms or individuals, corporations are at a disadvantage in either avoiding or evading taxation. (See comment on Forms 19 and 20.)

§ 155. Corporate Calendar.

The corporate calendar, or some equivalent, is almost indispensable to the proper discharge of the secretary's duties. It consists of chronological memoranda of the important corporate matters to be attended to by the secretary or by the other officers of the corporation. It is simple and easily arranged, and its use will insure attention to these important matters at the proper time.

The corporate calendar should be kept upon a calendar pad, or in the minute book, or in some other manner so that it is readily accessible at any and all times. It will be found advantageous under some circumstances to arrange it in regular calendar form, so that it may be hung or placed in constant sight, with a card for each month, or for each quarter, as may be desired.

The dates for the corporate calendar will vary in the different states, and according to the by-law requirements of the particular company, but in general the following points should be covered:

1. Closing of transfer books.
2. Notices for annual meeting.
3. Preparation of alphabetical list of stockholders.
4. Annual meeting.
5. Notices of directors' meeting.
6. Directors' meetings.
7. Dividend days.
8. Dates for making reports.
9. Dates for payment of taxes.

Other matters pertaining to the particular corporation that should appear in the corporate calendar will readily suggest themselves to the secretary. Much care should be exercised in the preparation of the calendar, as, improperly prepared, it would tend to the very irregularities it was designed to prevent.

Corporate calendars for New York and New Jersey corporations will be found under Forms 151 and 152.

§ 156. Finale.

In conclusion, it may be said that the secretary should be well informed as to all ordinary corporate law and procedure, as such information is more necessary for him than for any other corporation official. The president may be, and often is, merely a figurehead. The treasurer is not supposed ordinarily to interest himself outside the round of his official duties, and, in most cases, confines his attention to the signing of checks, the collection of accounts and the supervision of the corporate finances and their records. The secretary, however, must not only attend to his own official duties, which require a very general knowledge of corporate procedure, but is usually expected to supply the deficiencies and supplement the knowledge of his official associates, and generally to see to the well-working of the corporate machinery.

The secretary should be supplied with a practical work on corporation management. In addition, he will find a copy of the statutes of his state relating to corporations of much use. Also a manual of parliamentary procedure will be helpful.

Where the statute law modifies the law given in the secretary's work on management, or where additional formalities are required, such facts should be noted on the margins of the proper pages of the work on management, in order to make it complete for that particular state. A volume so annotated will be found almost invaluable, not only for the secretary, but for the use of the other corporation officials as well.

PART IV.—FORMS.

CHAPTER XVII.

SUBSCRIPTION LISTS.

Subscription papers vary according to the conditions under which they are used. Many corporations are formed without any formal subscription to stock, as, for example, when a corporation is organized to take over an existing business or a property, and its stock is issued in payment therefor. In such case the few subscribers legally required for incorporation merely sign the charter application in which their subscriptions are set forth.

Subscription agreements are construed liberally by the courts in accordance with their intent. It is, however, prudent to have all essential features of the proposed incorporation plainly stated. The forms which follow are suggestive and may be modified to suit any special case.

The ordinary subscription, being, as a matter of fact, a proposition to the corporation, is not binding until the corporation has been formed and has accepted the subscriptions, as until the corporation has come into being it cannot be a party to the proposed contract. Until acceptance by the corporation, the subscription is a mere promise without consideration and subscribers may freely revoke their offers.

To avoid this difficulty, trustees, agents or a committee on organization may be named in the subscription as the other party or parties to the contract. (Forms 2, 3 and 5 are

examples.) The agreement is thereby completed, and subscriptions thereunder are, in accordance with their terms, made binding and irrevocable.

If the law under which the corporation is to be organized requires, as is the case in some states, that all or a certain proportion of the stock shall be subscribed for as a condition precedent to beginning business, subscribers cannot be held, unless they waive this right by the terms of subscription, until the required amount of *bona fide* subscriptions are obtained.

Any material change of the conditions set out in a subscription list releases the subscribers.

Any person competent to contract may make a binding subscription for stock. Usually, one corporation cannot subscribe for the stock of another corporation, the laws of most of the states prohibiting one corporation from holding the stock of another.

When a subscription list overruns the first page, additional sheets similarly ruled are pasted on below, or bound up with it in ordinary form. For extensive subscriptions, books are sometimes used. It is more convenient, however, to have a number of similar lists printed or typewritten, so that they may be circulated freely.

Form 1.—Subscription List. Simple Form.

.....

SUBSCRIPTION LIST

THE WILSON MANUFACTURING COMPANY.

To be Incorporated under the Laws of New York.

Capital Stock.....$25,000.
Shares.....$100 each.

We, the undersigned, hereby severally subscribe for and agree to take at its par value the number of shares of the Capital Stock of The Wilson Manufacturing Company set opposite our respective names, and agree to

pay therefor in cash on demand of the Treasurer so soon as said Company is organized.

Albany, New York, February 16, 1903.

NAMES.	ADDRESSES.	SHARES.	AMOUNT.
Henry T. Raymond.....	Cohoes, New York.....	5	$500 00
Charles B. Hill.....	" "	10	1,000 00

.....

This subscription list is informal, but will be found sufficient for small corporations where the purposes and conditions of subscription are well understood. The subscriptions under it would not be irrevocable until the organization of the company and the acceptance by it of the subscriptions then in force.

For Treasurer's Receipt for payments of subscriptions on foregoing list, see Form 8.

Form 2.—Subscription List. Preliminary Payment to Trustee.

.....

SUBSCRIPTION LIST.

ORMOND BRASS COMPANY.

To be Incorporated under the Laws of New York for the Manufacture of Brass and Metal Ware.

Capital Stock, $200,000. Shares, $100 each.

We, the undersigned, hereby severally subscribe at par for the number of shares of the capital stock of the Ormond Brass Company set opposite our respective signatures, and hereby promise and agree to pay therefor as follows:

Five per cent. of subscription on demand to Alvin L. Bell, as Trustee for the said Company, such payment, or so much thereof as may be necessary, to be used for the preliminary and incorporating expenses of said Company; 50% of subscription to the Treasurer of the Company ten days after the incorporation thereof, and the remainder of subscription at such times and in such instalments as may be prescribed by the Board of Directors.

New York, January 15, 1903.

NAMES.	ADDRESSES.	SHARES.	AMOUNT.
John M. James.....	30 Broad St., N. Y.....	35	$3,500 00

A subscription list like this is held to be a contract between the subscribers and the trustee. Subscriptions under it cannot be withdrawn nor revoked, but are binding from the time of signature.

For Trustee's Receipt in connection with the above list, see Form 7. For Instalment Certificate, see Form 10.

Form 3.—Subscription List. Agreement with Promoters.

.....

SUBSCRIPTION LIST.

RAYMOND MILLING COMPANY.

A Corporation to be Organized under the Laws of the State of New Jersey with a Capital Stock of $1,000,000.

We, the undersigned, for the purpose of providing working capital for the Raymond Milling Company, a corporation to be organized for the purposes and under the conditions set forth in the attached statement, hereby severally subscribe for the number of shares of the Treasury Stock of said Company set opposite our respective names, at the rate of fifty dollars ($50) for each One Hundred Dollar ($100) share, and agree to pay the amounts of our respective subscriptions to the Treasurer of such Company so soon as said Company is incorporated and its Treasury Stock ready for issue; said stock to be delivered, full-paid and non-assessable, upon payment of the said purchase price.

It is mutually agreed between the subscribers hereto and Hugo W. Williams and Henry B. Shaw, of Morristown, New Jersey, promoters of said enterprise, that these subscriptions are conditioned upon *bona fide* subscriptions for two hundred and fifty thousand dollars ($250,000) being secured hereto within ninety days from the date hereof.

Morristown, New Jersey, February 10, 1903.

NAMES.	ADDRESSES.	SHARES.	AMOUNT.
Henry G. Wilton.....	Morristown, N. J.....	500	$2,500 00

.....

This subscription list would be circulated by the promoters with a statement attached giving full details as to the capitalization and purposes of the company. When signed it forms an irrevocable contract between each subscriber and the two promoters, and could be enforced according to its terms.

In order to comply with the subscription requirement that stock be delivered to the purchasers full-paid, notwithstanding the fact that the subscription price amounts to but one-half its face value, the stock would, under the usual plan, be first issued at par in payment for patents or other property. This would render such stock full-paid and non-assessable. The party turning over the property to the company and receiving this stock in payment therefor would return a portion of such stock to the treasury of the company, usually as a donation, to be sold to raise working capital. As full-paid treasury stock it could then be issued to the subscribers at the specified rate of $50 per share and would still be full-paid and non-assessable. (See §§ 41, 48.)

Form 4.—Subscription Blank. Individual.

.....

SUBSCRIPTION BLANK.

THE NEW CENTURY WHEEL COMPANY,

20 Broad St., New York.

To be Incorporated under the Laws of New Jersey.

Capital Stock.....$200,000.

Shares.....$100 each.

I hereby subscribe for.....shares of the Capital Stock of the New Century Wheel Company at the par value thereof, and agree to pay 50% of such subscription on demand of the treasurer so soon as said Company is incorporated; the remainder to be paid at such times and in such amounts, not exceeding 10% of said subscription in any one month, as may be prescribed by the Board of Directors.

Unless one-half the Capital Stock of said Company is reliably subscribed on or before the 31st day of December, 1902, and the Company incorporated within thirty days thereafter, this subscription shall be void and of no effect.

.....

Dated at.....

.....

The above form is usually sent out by mail, accompanied by such statements, prospectuses and explanations as may be necessary. Any material misstatement of fact in such accompanying papers would render the subscription voidable at the option of the subscriber even after the organization of the company.

When individual subscription blanks are sent out, they are usually endorsed "The right is reserved to reject or pro rate any or all subscriptions," so that any objectionable subscriptions may be refused, or, should the stock be oversubscribed, so that the subscriptions may be proportionately scaled, or reduced, to the amount of stock offered.

Form 5.—Subscription List. Preferred Stock with Bonus.

.....

SUBSCRIPTION LIST.

ROANOKE RIVER FRUIT AND LAND COMPANY.

Capital Stock, $600,000; Common Stock, $450,000; Preferred Stock, $150,000. Shares, $100 each.

WILBUR BARRETT,
EDGAR L. MORGAN,
LOUIS B. SAMMIS,
} Committee on Organization.

We, the undersigned, do hereby severally subscribe for the number of shares of the preferred stock of the Roanoke River Fruit and Land Company set opposite our respective names, at the par value of $100 per share, and contract and agree with the above-named Committee on Organization to pay 50% of the amount of such subscription to the Treasurer of the Company on demand, so soon as said corporation is organized, and the remainder on or before the first day of June, 1903, provided that not less than $75,000 face value of preferred stock of the Company shall have been subscribed for in good faith on the terms herein set forth, on or before the date fixed for the incorporation of said Company.

The said Roanoke River Fruit and Land Company is to be incorporated under the laws of Virginia, not later than May 1st, 1903, with a Capital Stock of $600,000, divided into 6,000 shares of the par value of $100 each; 1,500 shares of said stock to be 6%, cumulative, preferred stock and 4,500 shares common stock. The preferred stock hereby subscribed for may be redeemed at any time after five years at the option of the Company by payment of $105 per share and any accrued interest, or may be exchanged by the holder, at its par value, at any time before redemption, for either town lots, lands or fruit farms belonging to the Company, at the regular selling price thereof.

With each share of preferred stock hereby subscribed for, and paid for in accordance with the terms of subscription, the subscriber is to receive as a bonus one share of the full-paid and non-assessable common stock of the Company.

New York, January 1, 1903.

NAMES.	ADDRESSES.	SHARES.	AMOUNT.
Henry V. Nelson.....	52 Broadway, N. Y.....	50	$5,000 00
Albert T. Raines.....	Norfolk, Virginia.....	10	1,000 00

.....

Such a subscription list is usually accompanied by a prospectus or statement setting out more fully the general purposes of the company, the plan of its organization and the basis upon which the subscription is asked.

After the organization of a company, subscription lists are not usually employed for the sale of its stock, separate subscription blanks being sent out to prospective purchasers. These blanks are generally very simple. The following is a common form:

Form 6.—Subscription Blank. After Organization.

.....

THE ST. JOHN GOLD MINING CO.
6 Wall St., New York.

Capital Stock.....$1,000,000.
Shares.....$10 each.

Enclosed find certified check for.....in payment for..... Shares of the full-paid, non-assessable stock of the St. John Gold Mining Company.

Issue Certificate to.....

Street.....

City.....

State.....

Date.....1902.

Make checks payable to order of the Company. The right is reserved to reject or pro rate subscriptions. Give full name of party to whom stock is to be issued.

.....

The above form would be modified to meet the conditions of any particular company. Such a blank would usually be accompanied by a prospectus giving full details of the company, its organization and its work, and giving any conditions of the subscription not mentioned in the subscription list.

In New York any subscription after organization must be accompanied by at least ten per cent. of its amount before such subscription becomes binding.

CHAPTER XVIII.

RECEIPTS FOR SUBSCRIPTIONS.

When full payment is made of a subscription, the stock is usually issued to the subscriber at once, and no other receipt is necessary, the possession of the full-paid certificate for such stock being sufficient evidence of payment.

Where, however, payment is not in full, or where payment is made in whole or in part before the organization of the company, or even at times where payment is made in full after organization, but the stock of the company is not ready for delivery, formal receipts are given for the moneys so paid, the form of receipt depending upon the conditions of payment.

Where payments are to be made on stock subscriptions before the incorporation of the company, a trustee is appointed to receive and receipt for these payments and to act for the company until its organization. This trustee is usually selected by the promoters of the enterprise and named as trustee in the subscription list. Where this is not done, a trustee might be selected later by action of the subscribers.

The receipt for preliminary payments given by such trustee would be as in Form 7.

This trustee's receipt would be neatly printed and bound in book form, with perforations between the stub and receipt so that this latter may be easily torn out and given to the party making payment. The stub is retained as the trustee's record of the transaction. The form as given shows the receipt filled out, signed and ready to be issued. If it were desired to assign this receipt, the form of assignment would, with the proper change in the name of the instrument assigned, be the same as for instalment scrip. (See Form 12.)

Form 7.—Trustee's Receipt.

No. 1.

Amount, $175.00.

Shares, 35.

Name,
John M. James.

Instalment, 5%.

Date,
February 10, 1903.

No. 1. Shares, 35.

ORMOND BRASS COMPANY.

TRUSTEE'S RECEIPT.

$175.00.

I hereby certify that John M. James, a subscriber for Thirty-five Shares of the Capital Stock of the Ormond Brass Company, at its par value of $100 per share, has paid to me as Trustee for said Corporation, on account of said subscription and in accordance with its terms, the sum of One Hundred and Seventy-five Dollars, said amount being 5% of the total amount of his said subscription.

This receipt will, upon the organization of the said Ormond Brass Company, be received and credited by the Treasurer thereof to its full amount as a payment upon said subscription.

ALVIN L. BELL,
Trustee.

New York,
February 10, 1903.

(See Forms 2, 10.)

Form 8.—Treasurer's Receipt.

No. 1.

Shares, 5.

Amount, $500.00.

Name,
Henry T. Raymond.

Date,
April 1, 1903.

No. 1. Shares, 5.

THE WILSON MANUFACTURING COMPANY.

TREASURER'S RECEIPT.

$500.00.

This is to certify that Henry T. Raymond has paid into the treasury of the Wilson Manufacturing Company the sum of Five Hundred Dollars, in full for Five Shares of its Capital Stock, duly executed certificates for which will be issued to the order of said Henry T. Raymond upon surrender of this receipt, so soon as such certificates are ready for delivery.

JOHN B. ALLISON,
Treasurer.

Albany, New York,
April 1, 1903.

(See Form 1.)

If the company's stock certificates were to be ready for delivery shortly, the foregoing receipt would be printed neatly but in the plainest style. Where there is a probability of some time elapsing before delivery of the certificates, the receipt would usually be gotten up in much more elaborate style, with lithographed or even engraved work. These more formal receipts would be signed by the president as well as by the treasurer, and, if payment were made in full, would usually take the form of the ordinary stock certificate. (See Form 13.) Blank assignments are frequently printed on the back of receipts so that they may be easily transferable. The form of this assignment follows. (Form 9.)

The treasurer's receipts are usually bound in books with perforations between the stub and the receipt, so that the latter may be easily torn out, the stub being left as a record. When the stock is delivered, the receipts are surrendered to the treasurer for cancellation. If in the hands of the original subscriber, no endorsement would be necessary on receipts surrendered. In the hands of an assignee, the assignment should be attached to or endorsed on the receipt. If temporary stock certificates had been issued, instead of receipts, they would require the usual stock certificate endorsement. (Form 18.)

Form 9.—Assignment of Treasurer's Receipt.

.....

For value received, I hereby sell, assign and transfer to John W. Harmon, of New York City, the within receipt and the payments evidenced thereby and do hereby authorize and instruct the Secretary of the Wilson Manufacturing Company to issue to the order of my said assignee, in my place and stead, the Five Shares of Stock of that Company called for by the within receipt and for which the payments thereof were made.

Albany, New York,
April 10, 1903.

HENRY T. RAYMOND.

In presence of
JAMES S. SEALEY.

.....

Form 10.—Instalment Certificate or Scrip.

No. 1.

Shares, 35.

Payment:

Cash.....	$1,750
Trustee's Rec'pt..	175
Total.....	$1,925

Name,
John M. James.

Date,
March 20, 1903.

No. 1. 35 Shares.

ORMOND BRASS COMPANY.

INSTALMENT CERTIFICATE.

NEW YORK,
MARCH 20, 1903.

$1,925.

This is to certify that John M. James, a subscriber for Thirty-five Shares of the Capital Stock of the Ormond Brass Company of New York City, at its par value of $100 per share, has paid into the treasury of the Company on account of said subscription and in accordance with its terms, Fifty Dollars per share in cash, and Five Dollars per share by Trustee's Receipt.

Upon payment of the remaining instalments of said subscription, and surrender of this certificate, accompanied by due and proper vouchers evidencing payment of the remaining instalments of subscription, duly executed Certificates for said Thirty-five Shares of Stock will be issued to the order of the said subscriber.

WILLIS B. GOULD,
Treasurer.

HENRY W. STILMAN,
President.

(See Forms 2, 7.)

If the corporation were a small one and the subscribers were close at hand, so that they could easily bring their instalment certificates in for endorsement of subsequent payments, the certificates might be ruled on the back for this purpose as shown below:

Form 11.—Endorsement for Instalment Payments.

.....

DATE.	INSTALMENTS PAID.	SIGNATURE OF TREASURER.
April 1, 1903.....	$350 00	Willis B. Gould
May 1, 1903.....	700 00	Willis B. Gould

.....

This ruling should run across the certificate and have a sufficient number of lines to allow for the probable number of payments. As payments are made the dates and amounts would be entered in the proper columns and verified by the signature of the treasurer in the last column, one signature opposite each payment. When this plan is followed, the stub of the certificate should also have rulings to permit the same entries of date and amount—without treasurer's signature following—to appear upon the stub, so that both certificate and stub show a complete record of the transaction.

Where possible, this arrangement is very satisfactory and convenient, but, usually, and particularly in the case of the larger corporations, it is neither convenient nor safe to send in certificates for endorsement at the time of the instalment payments. In such cases, as payments are usually made by check, they are evidenced by a direct receipt from the treasurer, one for each payment received by him. Such receipts are of the usual form and state that the payment made is for account of subscription to the stock of the particular company, the payment being identified by the number of the instalment or by the date on which the assessment was levied.

Should the instalment certificate be sold or transferred before full payment of the subscription, or before delivery of the stock had been made, the following form of assignment would appear upon its back:

Form 12.—Assignment of Instalment Certificate.

.....

For Value Received, I hereby sell, assign and transfer to William M. Sinton, of New York City, my subscription to Thirty-five (35) Shares of the Capital Stock of the Ormond Brass Company, together with the payments made thereon, all as evidenced by the within Instalment Certificate, and I do hereby authorize and instruct the Secretary of said Company, upon completion of the conditions of my said subscription, to issue said stock to the order of my said assignee.

JOHN M. JAMES.

New York, July 1, 1903.

In presence of
WILLIAM B. SILVERTON.

.....

(See Form 10.)

If payments had been made on this subscription subsequent to the issue of the instalment certificate, but before its sale or transfer, these payments would be evidenced by the treasurer's receipts; and each of these receipts would also be assigned by the following endorsement on the back thereof:

Form 12a.—Assignment of Instalment Receipt.

.....

For Value Received, I hereby sell, assign and transfer the within receipt and the payment evidenced thereby to William Sinton.

New York City, July 1, 1903. JOHN M. JAMES.

.....

The form of assignment for the sale of a trustee's receipt (Form 9) would be the same as for an instalment certificate, the wording being changed to correspond to the title of that instrument.

CHAPTER XIX.

STOCK CERTIFICATES.

Stock certificates may be had in many different styles, sizes and forms. Usually they are prepared in quantity by the larger publishing houses with lithographed design and body, the variable data, such as the name of company, State of incorporation, capital stock, etc., being left for insertion by local printers. For this reason any variation from the ordinary forms is difficult to secure, requiring special preparation.

Most of the forms in common use contain all the essential requirements of a stock certificate, differing only in manner of expression, arrangement of matter, design, etc., though occasionally serious defects are found. Such defects would not ordinarily involve serious consequences, but, as a matter of common precaution, should be avoided.

Where an unusually fine certificate is desired, it is lithographed or engraved throughout, and the finest bond paper is employed. On the other hand, where the issue is but temporary, or the incorporators are indifferent, the certificates are merely printed, or even written, on slips of ordinary paper and in plainest design. A neat and tasteful certificate is always to be desired. Ornate and tinted designs seem to be preferred by the investing public. (See §§ 7, 43 and 147.)

Usually the officers to sign these stock certificates are designated by the by-laws of the corporation, though in some states, as New Jersey, the proper officials are designated by the statutes. The form given below complies with the New Jersey statutes as to signatures.

The following form of certificate and stub will be found correct, clear and satisfactory:

Form 13.—Stock Certificate with Stub.

Certificate No. 25.
For 20 shares.
Dated June 10th, 1903.
Issued to
Henry S. Stanford,
25 William St.,
New York City.
Issued against surrendered Certificate No. 16.

Received the above certificate this 12th day of June, 1903.
HENRY S. STANFORD.

.....

.....

Certificate No. 25, cancelled.....190
Certificates issued in its stead as follows:
No.....for.....Share
No..... " ..... "
No..... " ..... "

No. 25. 20 Shares.

Incorporated under the Laws of
The State of New York.

MARSTON MANUFACTURING COMPANY.

Capital Stock, $50,000.

Full-paid and Non-assessable.

THIS IS TO CERTIFY that Henry S. Stanford is the owner of Twenty Shares of the Capital Stock of the Marston Manufacturing Company, transferable only on the books of the Company by the said owner thereof in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed.

{ CORPORATE SEAL. } Witness the Seal of the Company and the signatures of its duly authorized officers this tenth day of June, 1903.

HENRY CORNELL, Treasurer.

MORRIS P. MARSTON, President.

Shares, $100 Each.

The words "full-paid and non-assessable" should not appear upon the face of the certificate unless the stock for which it stands has been paid for in full, in cash or property. (See § 41.)

The word "Company" is usually printed in full in the stock certificate, though the abbreviation "Co." may be used if preferred.

The stub given in connection with the foregoing form of certificate covers every ordinary requirement, giving a complete record of the transaction. It is simple and easily kept, and is very much preferable to the stub form which follows and which is given here merely because it is in such general use, and is so difficult to understand that an explanation of it will be appreciated by those who are unable to secure the better forms. The blanks of this stub are, in the example, filled with the same data as appear on the preceding certificate and stub (Form 13). The only additional details appearing upon the following stub are the name of the person to whom the surrendered certificate, No. 16, was issued, and the number of shares represented by that certificate.

Form 14.—Usual Form of Stock Certificate Stub.

Certificate No. 25.

For 20 Shares.

Issued to
Henry S. Stanford,
25 William St., New York.

Dated, June 10th, 1903.

From Whom Transferred,
James H. Stanley.
Dated, June 1st, 1903.

NO. ORIGINAL CERTIFICATE.	NO. ORIGINAL SHARES.	NO. OF SHARES TRANSFERRED.
16	35	20

Received Certificate No. 25 for 20 Shares, this 12th day of June, 1903.
HENRY S. STANFORD.

This stub shows that Certificate No. 16, for 35 shares issued to James H. Stanley, was surrendered, and that 20 shares therefrom were reissued to Henry S. Stanford. The remaining 15 shares might be held to the credit of the owner for future reissue, but would probably be reissued at the same time in one or more additional certificates.

If nothing appears to the contrary on the face of a stock certificate, it represents common stock. Should the company issue preferred stock, this fact should show on both the common and preferred stock certificates, and the kind of stock represented by any particular certificate should appear unmistakably on its face. Were twenty thousand dollars of the stock of the Marston Manufacturing Company preferred, the heading of the foregoing certificate (Form 13) would appear as follows:

MARSTON MANUFACTURING COMPANY.

Capital Stock..... $50,000.

Common Stock.... $30,000.
Preferred Stock... 20,000.

In addition to this the wording of the body of the certificate would be changed to read "Twenty Shares of the Common Stock" and the term "Common Stock" would usually be printed or lithographed prominently across the face of the certificate.

Preferred stock certificates are of the same general form as certificates for common stock, but must show plainly that they represent preferred stock, and the conditions under which such preferred stock is issued should appear upon the face of the certificate. (See § 47.) The following is a common form:

Form 15.—Preferred Stock Certificate.

(Stub same as for Common Stock except that heading should read "Preferred Stock." This requirement is, however, quite commonly neglected.)

No. 15. Incorporated under the Laws of The State of New York. 10 Shares.

MARSTON MANUFACTURING COMPANY.

Capital Stock..... $50,000.
Common Stock.. $30,000.
Preferred Stock. 20,000.
Full-paid and Non-assessable.

THIS IS TO CERTIFY that Jens H. Muller is the owner of Ten Shares of the Preferred Stock of the Marston Manufacturing Company, transferable only on the books of the Company by the said owner, in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed.

The preferred stock represented by this certificate is entitled to an annual dividend of Six (6%) per cent. payable out of the net profits of the Company before any dividend is paid upon the Common Stock. Should the net profits in any year be insufficient to pay said preferred dividend, either in whole or in part, any unpaid portion thereof shall become a charge against the net profits of the Company and shall be paid in full out of said net profits before any dividends are paid upon the Common stock.

Said preferred stock is subject to redemption at the option of the Company at any time after Ten (10) Years from the first day of June, 1903, upon payment of One Hundred and Five ($105) Dollars per share and any accumulated dividends, and, unless sooner retired, shall be redeemed by the Company at its par value, with payment of any accumulated dividends, on June 1st, 1923.

Said preferred stock is not entitled to vote at stockholders' meetings of the Company, nor to participate in profits beyond its fixed, preferential, cumulative, annual dividend of Six Per Cent.

{ CORPORATE SEAL. } Witness the Seal of the Company and the Signatures of its duly authorized Officers this first day of July, 1903.

HENRY CORNELL, Treasurer. MORRIS P. MARSTON, President.

Shares, 100 Each.

This certificate shows that the Marston Manufacturing Company has an authorized issue of twenty thousand dollars of preferred stock, which is to receive an annual, cumulative, preferred dividend of six per cent., is redeemable at any time after ten years at one hundred and five dollars per share, with payment of any accumulated dividends; that it must be redeemed at par with the full payment of all dividends at the expiration of twenty years; that it is non-voting and does not participate in profits beyond its 6 per cent. dividend.

Preferred stock certificates are usually numbered independently of the common certificate; that is, the first preferred certificate is numbered " 1 " without regard to the fact that the first common certificate was also numbered " 1," the two series being separate and distinct as to numbering.

In the following certificate the preferred stock first draws its dividend of 6 per cent., the common stock then draws a similar dividend if profits are sufficient, and any remaining profits are apportioned to both preferred and common stock on the same basis. Also, as no restriction is placed upon the voting rights of the preferred stock, it would have the same voting power as the common stock. (See § 47.)

Form 16.—Preferred Stock Certificate. Special Form.

.....

Incorporated under the Laws of the State of New Jersey.

No. 274. 35 Shares.

THE SAN REMO WATER SUPPLY COMPANY.

Capital Stock..... $200,000.

Common Stock... $150,000.
Preferred Stock... 50,000.

Full-paid and Non-assessable.

This certifies that Willis H. Sherwood is the owner of Thirty-five Shares of the Preferred Stock of the San Remo Water Supply Company, transferable only on the books of the Company by said owner, in person or by duly authorized attorney, upon surrender of this Certificate properly endorsed.

Said Stock is part of an issue of $50,000 par value, authorized upon the terms herein set forth, by the Certificate of Incorporation of the said Company, as filed in the office of the Secretary of State of New Jersey on the 5th day of May, 1903.

The holders of this preferred stock are entitled to receive a cumulative, preferential dividend of six per cent. per annum, payable each year out of the net earnings of the Company before any reservation is made therefrom for working capital, and before any dividend is paid upon the common stock of the Company, but should the net earnings in any one year be insufficient to pay said preferred dividend in full, such portion of said dividend as may be possible shall be paid therefrom, and any unpaid dividends shall be a charge against the net earnings of the Company and shall be paid in full out of the first available profits.

If, after paying said dividend of six per cent. upon said preferred stock for any year, together with any or all arrearages thereon, any further available profits shall remain, the Directors of the Company may, at their discretion, declare and pay a dividend not exceeding six per cent. upon the outstanding common stock of the Company, and, should there still remain available profits, may declare such further and additional dividends upon all the outstanding stock of the Company as may by them be deemed advisable, paying to common and preferred stock alike, the same per centum of any such additional dividends.

{ CORPORATE SEAL. } Witness the Seal of the Company and the signatures of its duly authorized officers, affixed in the City of Newark this 30th day of May, 1903.

HOWARD C. ESSELTON, Treasurer. HENRY STILSON, President.

Shares, $100 Each.

.....

Where the conditions of preferred stock are too numerous or too lengthy to be set out upon the face of the certificate, they are omitted, and reference is made on the certificate to the charter, the by-laws or the resolution under which such stock has been issued. In such cases the second paragraph of the preceding certificate would be changed to read as follows, and the third and fourth paragraphs would be omitted:

.....

Said stock is part of an issue of fifty thousand ($50,000) dollars par value, authorized by the Certificate of Incorporation of the said Company, as filed in the office of the Secretary of State of New Jersey on the 5th day of May, 1903, and is issued under the terms and conditions therein set forth.

.....

Preferred stock is sometimes issued in very crude form, the ordinary certificate (§ 13) being used, and the fact that it represents preferred stock, together with the conditions under which such preferred stock is issued, being printed across its face in red, or in some other distinctive style.

Transfers of Stock.

Stock is transferred by assignment, the form for which is placed upon the back of the certificate. There is but one form of this assignment in common use, which, though rather informal and incomplete in some respects, is generally regarded as sufficient. This assignment, in case of a sale of the stock represented by the certificate, is signed by the party in whose name the certificate stands and this signature is duly witnessed, the remaining blanks in the form being left to be filled in later.

Form 17.—Assignment in Blank of Stock Certificate.

.....

For Value Received.....hereby sell, assign and transfer to.....

.....

Shares of the Capital Stock represented by the within Certificate, and do hereby irrevocably constitute and appoint..... attorney to transfer the said stock on the books of the within-named Company, with full power of substitution in the premises.

HARRY B. SINCLAIR.

Dated.....190.....

In presence of
JOHN S. DUNCAN.

.....

The signature to this assignment must correspond exactly with the name upon the face of the certificate.

Certificates of stock duly endorsed in blank, as in the form given, may be sold and passed from hand to hand, indefinitely, without transfer upon the books of the company, until some holder presents it and takes out a new certificate in his own name. Such holder would fill out the blanks still left in the assignment, turn the certificate in to the secretary of the company and receive in its stead a new certificate made out in the name indicated by the assignment. The assignment, filled out, would read as follows:

Form 18.—Assignment of Stock Certificate. Complete.

.....

For Value Received, I hereby sell, assign and transfer to Janice Bardwell Ellsworth, of New York City, Twenty-five (25) Shares of the Capital Stock represented by the within Certificate, and do hereby irrevocably

constitute and appoint Henry S. Dillsworth my attorney to transfer the said Stock on the books of the within-named Company, with full power of substitution in the premises.

HARRY B. SINCLAIR.

Dated Feb. 1, 1903.

In presence of
JOHN S. DUNCAN.

.....

Usually the name of the secretary of the company is inserted as the attorney who is to make the transfer on the books of the company, though any other suitable person might be named instead. When the assignment is completed as above the certificate is usually turned in and a new certificate issued before any further sales or transfers of the stock it represents are made. (See §§ 44, 148, and Form 145.)

Assignment in blank of a portion of the stock represented by a certificate are in practice never made. For the procedure where but a portion of the stock of any certificate is sold, see § 147.

CHAPTER XX.

CHARTER FORMS.

The charter, or, as it is usually termed, the certificate of incorporation, is the most important instrument connected with the organization of a corporation. It should be drawn by a competent attorney familiar with its possibilities and capable of adjusting these to the needs of the particular enterprise. Much care should be taken in the preparation of the charter, as upon its provisions largely depends the successful operation of the company.

The forms for charters vary with the statute requirements of the different states, though the general form and requisites are the same in most of the states. The following charters for New York and New Jersey are included merely to give a general idea of their form and to make intelligible the many references in the present volume to the charter and its requirements.

The forms given are modified from existing charters, and while simple, are clear and, as far as they go, complete. For larger or more complex incorporations these forms would be greatly expanded by amplification of the purposes and by inserting additional provisions. The essential features would, however, be the same. (See § 10 and Chapter II.)

It is to be noted that the charter is in form an application for a charter. If made in proper form, it is allowed and filed as a matter of course, and immediately becomes the charter of the company. Thereupon the new corporation is fully authorized to proceed with its first meetings and perfect its organiza-

tion, and, upon the payment into its treasury of the minimum amount with which it can begin business, its legal rights are complete.

Form 19.—New York Charter.

.....

CERTIFICATE OF INCORPORATION

of the

MARSTON MANUFACTURING COMPANY.

We, the undersigned, all being of full age and two-thirds being citizens of the United States, and one of us a resident of the State of New York, for the purpose of forming a Corporation under the Business Corporations Law of the State of New York, do hereby certify and set forth:

First—The name of said Corporation shall be

"MARSTON MANUFACTURING COMPANY."

Second—The purposes for which said Corporation is formed are as follows:

1. To buy, sell, manufacture and generally deal in all manner of tools, machinery, devices, appliances and supplies used in the cooper's trade.

2. To lease, buy, sell, use and hold all such property, real or personal, as may be necessary or convenient in connection with the said business.

3. To do any or all things set forth in this certificate as objects, purposes, powers or otherwise, to the same extent and as fully as natural persons might do, and in any part of the world.

Third—The amount of Capital Stock of said Corporation shall be Fifty Thousand ($50,000) Dollars.

Fourth—The number of shares composing said capital stock shall be Five Hundred (500) Shares of the par value of One Hundred ($100) Dollars each, and the amount of capital with which said Corporation will begin business is Five Hundred ($500) Dollars.

Fifth—The principal business office of said Corporation shall be in the City, County and State of New York.

Sixth—The duration of said Corporation shall be perpetual.

Seventh—The number of directors of said Corporation shall be three.

Eighth—The names and post-office addresses of the directors of said Corporation for the first year are as follows:

NAMES.	ADDRESSES.
Morris P. Marston	No. 165 Grand Ave., Brooklyn, N. Y.
John Adams	No. 30 Broad St., New York City.
Henry Cornell	Little Falls, New Jersey.

Ninth—The names and post-office addresses of the subscribers to this certificate, and the number of shares of stock which each agrees to take in said Corporation, are as follows:

NAMES.	ADDRESSES.	SHARES.
Morris P. Marston....	No. 165 Grand Ave., Brooklyn, N. Y.....	25
John Adams.....	No. 30 Broad St., New York City.....	10
Henry Cornell.....	Little Falls, New Jersey.....	10
William B. Ames.....	Singac, New Jersey.....	5

Tenth—Pursuant to Section 40 of the Stock Corporation Law, as amended, this Corporation shall have power to purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and issue in exchange therefor its stocks, bonds or other obligations.

In Witness Whereof, we have made and signed this certificate in duplicate this fourteenth day of January, one thousand nine hundred and three.

MORRIS P. MARSTON.
JOHN ADAMS.
HENRY CORNELL.
WILLIAM B. AMES.

STATE OF NEW YORK, }
County of New York, } *ss.:*

Personally appeared before me this 14th day of January, 1903, Morris P. Marston, John Adams, Henry Cornell and William B. Ames, to me personally known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same for the purposes therein set forth.

SETH LAWSON,
Notary Public for New York County.

{ NOTARIAL SEAL. }

.....

The acknowledgment of the certificate of incorporation must be made before a Notary Public, Commissioner of Deeds or a Justice of the Peace. For the procedure as to filing see Section 23, Chapter II. The organization tax and all fees must be paid before the certificate will be filed in the office of the Secretary of State. The following table gives the fees and taxes in New York:

TABLE OF FEES AND TAXES.

CAPITAL STOCK.	ORGANIZATION FEE.	SUNDRY FEES.	TOTAL.	ANNUAL TAX.
$5,000	$2 50	$15 00	$17 50	$7 50
10,000	5 00	15 00	20 00	15 00
50,000	25 00	15 00	40 00	75 00
100,000	50 00	15 00	65 00	150 00
1,000,000	500 00	15 00	515 00	1,500 00

The organization tax is one-twentieth of one per cent. of the capitalization. The sundry fees are paid to different state and county officials.

The annual tax given in the above table is computed on the supposition of a six per cent. dividend having been declared in the preceding year. If a greater or less dividend, or no dividend at all was declared, there would be an equitably calculated difference in the tax as given above. Also, New York is peculiar in the fact that the annual tax is only laid upon that portion of the capital of the company actually employed in the state. If a New York corporation employed but one-tenth of its capital in the state, it would pay but one-tenth of the tax as given.

Mining, laundry and manufacturing corporations operating in the state are exempt from these state taxes, providing at least 40 per cent. of their capital stock is invested in the business within the state.

Property owned by a corporation in the state is taxed locally as if owned by an individual. Corporations having their principal office in New York City are liable to have to pay a tax of two per cent. and upward upon personal property, and the reports required make it almost impossible to evade or reduce this without perjury. This fact should receive careful consideration. It is here that skilled counsel can often save much future expense.

Form 20.—New Jersey Charter.

.....

CERTIFICATE OF INCORPORATION

of the

CANFIELD CHEMICAL COMPANY.

We, the undersigned, for the purpose of forming a corporation under and by virtue of the provisions of an act of the Legislature of the State of New Jersey, entitled "An act concerning corporations (Revision of 1896)," and the several supplements thereto and acts amendatory thereof, do hereby severally subscribe for and agree to take the number of shares of stock of

the said corporation hereinafter placed opposite our respective names, and do further certify and set forth as follows:

First—The name of said corporation shall be

"CANFIELD CHEMICAL COMPANY."

Second—The location of its principal office in the State of New Jersey shall be at No. 15 Exchange Place, Jersey City.

The name of the agent who shall be therein and in charge thereof, upon whom process against this corporation may be served, is the Corporation Trust Company of New Jersey.

Third—The objects for which this corporation is formed are:

(*a*) To manufacture, prepare, compound, mix, combine, buy, sell and generally deal in all manner of chemicals, chemical products, drugs and pharmaceutical compounds and preparations, and to patent, register or otherwise protect the same.

(*b*) To obtain, purchase or otherwise acquire formulæ, patents and secret processes for the manufacture and preparation of chemicals, drugs and the compounds and preparations thereof, and to operate under, sell, assign, grant licenses in respect of, or otherwise turn the same to account.

(*c*) To enter into, carry out or otherwise turn to account contracts of every kind; to have and maintain offices within and without the State; to acquire, hold, mortgage, lease and convey or otherwise use or dispose of real and personal property in any part of the world, and in general to carry on such operations and enterprises and to do all such things in connection therewith as may be permitted by the laws of New Jersey and be necessary or convenient in the conduct of the Company's business.

Fourth—The total authorized stock of the corporation shall be seven thousand five hundred ($7,500) dollars, divided into seventy-five (75) shares of the par value of one hundred dollars ($100) each, and the amount of capital stock with which said corporation will begin business is five thousand ($5,000) dollars.

Fifth—The names and post-office addresses of the incorporators and the number of shares subscribed for by each are as follows:

NAMES.	ADDRESSES.	SHARES.
James L. Canfield.....	15 Exchange Place, Jersey City, N. J.....	40
Edwin Walker.....	15 " " "	5
Elbert J. Keen.....	15 " " "	5

Sixth—The period of existence of said corporation shall be unlimited.

In Witness Whereof, we have hereunto set our hands and seals this 21st day of January, A. D. nineteen hundred and three.

JAMES L. CANFIELD. [L. S.]
EDWIN WALKER. [L. S.]
ELBERT J. KEEN. [L. S.]

In presence of
JOHN CARSON.
WARREN GORHAM.

STATE OF NEW JERSEY, } ss.:
County of Hudson, }

Be it Remembered, that on this 21st day of January, A. D. nineteen hundred and three, before the undersigned, personally appeared James L. Canfield, Edwin Walker and Elbert J. Keen, who, I am satisfied, are the persons named in and who executed the foregoing certificate, and I, having first made known to them, and each of them, the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

JOHN H. WILSON,
Master in Chancery of New Jersey.

.....

The certificate of incorporation must be personally signed and sealed by all the subscribers to the capital stock who are named in the instrument and must then be acknowledged by them before any officer qualified under the New Jersey laws to take acknowledgments for deeds of real estate. For the procedure as to filing see Section 23, Chapter II. The following table gives the fees and taxes in New Jersey:

TABLE OF FEES AND TAXES.

CAPITAL STOCK.	ORGANIZATION FEE.	SUNDRY FEES.	TOTAL.	ANNUAL TAX.
$5,000	$25 00	$10 00	$35 00	$5 00
10,000	25 00	10 00	35 00	10 00
50,000	25 00	10 00	35 00	50 00
100,000	25 00	10 00	35 00	100 00
1,000,000	200 00	10 00	210 00	1,000 00

The state organization fee is 20 cents on each thousand dollars of capitalization, but in no case less than the minimum of $25. The annual tax on all issued and outstanding stock up to $3,000,000 is one-tenth of one per cent. On all stock in excess of $3,000,000 and not exceeding $5,000,000 the rate is one-twentieth of one per cent. per annum. On all stock in excess of $5,000,000 the rate of tax is fifty dollars per annum on each million dollars or part thereof. Manufacturing and mining corporations employing not less than one-half of their capital within the state are exempt from the annual tax. The fees are somewhat high for the smaller incorporations.

"Non-resident" corporations are required to maintain an office in the state with an agent in charge, upon whom legal service may be had. Individuals and companies in New Jersey make a business of maintaining these offices for non-resident corporations, their annual fees ranging from $25 to $50. These fees are not based upon the capitalization of the companies represented, but are purely arbitrary.

CHAPTER XXI.

BY-LAWS.

By-laws are the working rules of the corporation. They are subordinate in authority to the provisions of the charter, but are superior to resolutions and motions. Usually those provisions of the charter which apply more directly to the conduct of the corporation are brought into and made part of the by-laws. Such inclusion does not in any way strengthen these provisions, nor render their observance more binding, but is merely a precaution to prevent their being overlooked and neglected, the charter being seldom referred to, while the by-laws are supposed to be in constant use.

By-laws should be prepared and adapted to the needs of the particular corporation with the greatest care. Two sets follow, the first a short set, well adapted to the use of small or close corporations, where but little formality is required; the second, a more complete arrangement, for the use of those corporations whose larger activities demand a more elaborate mechanism and more precise and specific directions for its operation.

It should be noted that these more complete by-laws are arranged for New Jersey and will need some modification when used in other states (see Part II of this work, for the same set of by-laws adapted to New York); also that they do not provide for cumulative voting (§ 54), nor for classification of directors (§ 66), which features must be provided for in the certificate of incorporation, if desired, before they can be added to the by-laws.

Both the sets of by-laws given have stood the test of successful use. They may be easily modified to meet the requirements of any particular state or company. (For full and complete discussion of By-laws see Part II of this work.)

Form 21.—By-laws. Short Set.

.....

BY-LAWS

OF THE

COLVILLE CARBONATE COMPANY,

New York City.

ARTICLE I.—STOCK.

1. *Certificates of Stock* shall be issued in numerical order from the stock certificate book, be signed by the President and Treasurer and sealed by the Secretary with the corporate seal. A record of each certificate issued shall be kept on the stub thereof.

2. *Transfers of Stock* shall be made only upon the books of the Company and before a new certificate is issued the old certificate must be surrendered for cancelation. The stock books of the Company shall be closed for transfers twenty days before general elections and ten days before dividend days.

3. *The Treasury Stock* of the Company shall consist of such issued and outstanding stock of the Company as may be donated to the Company or otherwise acquired, and shall be held subject to disposal by the Board of Directors. Such stock shall neither vote nor participate in dividends while held by the Company.

ARTICLE II.—STOCKHOLDERS.

1. *The Annual Meeting* of the stockholders of this Company shall be held in the principal office of the Company in New York City on the second Monday in January of each year at 12 M.

2. *Special Meetings* of the stockholders may be called at the principal office of the Company at any time by resolution of the Board of Directors, or upon written request of stockholders holding one-third of the outstanding stock.

3. *Notice of Meetings,* written or printed, for every regular or special meeting of the stockholders, shall be prepared and mailed to the last known post-office address of each stockholder not less than ten days before any such meeting, and if for a special meeting, such notice shall state the object or objects thereof.

4. *A Quorum* at any meeting of the stockholders shall consist of a majority of the voting stock of the Company, represented in person or by proxy. A majority of such quorum shall decide any question that may come before the meeting.

5. *The Election of Directors* shall be held at the annual meeting of stockholders and shall, after the first election, be conducted by two inspectors

of election appointed by the President for that purpose. The election shall be by ballot, and each stockholder of record shall be entitled to cast one vote for each share of stock held by him.

6. *The Order of Business* at the annual meeting, and, as far as possible, at all other meetings of the stockholders, shall be:

1. Calling of Roll.
2. Proof of due notice of Meeting.
3. Reading and disposal of any unapproved Minutes.
4. Annual Reports of Officers and Committees.
5. Election of Directors.
6. Unfinished Business.
7. New Business.
8. Adjournment.

Article III.—Directors.

1. *The Business and Property* of the Company shall be managed by a Board of seven Directors, who shall be stockholders and who shall be elected annually by ballot by the stockholders for the term of one year, and shall serve until the election and acceptance of their duly qualified successors. Any vacancies may be filled by the Board for the unexpired term. Directors shall receive no compensation for their services.

2. *The Regular Meetings* of the Board of Directors shall be held in the principal office of the Company in New York City on the third Tuesday of each month at 3 P. M.

3. *Special Meetings* of the Board of Directors to be held in the principal office of the Company in New York City may be called at any time by the President, or by any three members of the Board, or may be held at any time and place, without notice, by unanimous written consent of all the members, or by the presence of all members at such meeting.

4. *Notices* of both regular and special meetings shall be mailed by the Secretary to each member of the Board not less than five days before any such meeting, and notices of special meetings shall state the purposes thereof.

5. *A Quorum* at any meeting shall consist of a majority of the entire membership of the Board. A majority of such quorum shall decide any question that may come before the meeting.

6. *Officers of the Company* shall be elected by ballot by the Board of Directors at their first meeting after the election of directors each year. If any office becomes vacant during the year, the Board of Directors shall fill the same for the unexpired term. The Board of Directors shall fix the compensation of the officers and agents of the Company.

7. *The Order of Business* at any regular or special meeting of the Board of Directors shall be:

1. Reading and disposal of any unapproved Minutes.
2. Reports of Officers and Committees.
3. Unfinished Business.
4. New Business.
5. Adjournment.

Article IV.—Officers.

1. *The Officers of the Company* shall be a President, a Vice-President, a Secretary and a Treasurer, who shall be elected for one year and shall hold office until their successors are elected and qualify. The positions of Secretary and Treasurer may be united in one person.

2. *The President* shall preside at all meetings, shall have general supervision of the affairs of the Company, shall sign or countersign all certificates, contracts and other instruments of the Company as authorized by the Board of Directors; shall make reports to the directors and stockholders and perform all such other duties as are incident to his office or are properly required of him by the Board of Directors. In the absence or disability of the President, the Vice-President shall exercise all his functions.

3. *The Secretary* shall issue notices for all meetings, shall keep their minutes, shall have charge of the seal and the corporate books, shall sign with the President such instruments as require such signature, and shall make such reports and perform such other duties as are incident to his office, or are properly required of him by the Board of Directors.

4. *The Treasurer* shall have the custody of all moneys and securities of the Company and shall keep regular books of account and balance the same each month. He shall sign or countersign such instruments as require his signature, shall perform all duties incident to his office or that are properly required of him by the Board, and shall give bond for the faithful performance of his duties in such sum and with such sureties as may be required by the Board of Directors.

ARTICLE V.—DIVIDENDS AND FINANCE.

1. *Dividends* shall be declared only from the surplus profits at such times as the Board of Directors shall direct, and no dividend shall be declared that will impair the capital of the Company.

2. *The Moneys* of the Company shall be deposited in the name of the Company in such bank or trust company as the Board of Directors shall designate, and shall be drawn out only by check signed by the Treasurer and countersigned by the President.

ARTICLE VI.—SEAL.

1. *The Corporate Seal* of the Company shall consist of two concentric circles, between which is the name of the Company, and in the centre shall be inscribed "Incorporated 1903, New York," and such seal, as impressed on the margin hereof, is hereby adopted as the Corporate Seal of the Company.

ARTICLE VII.—AMENDMENTS.

1. *These By-laws* may be amended, repealed or altered, in whole or in part, by a majority vote of the entire outstanding stock of the Company, at any regular meeting of the stockholders, or at any special meeting where such action has been announced in the call and notice of such meeting.

2. *The Board of Directors* may adopt additional by-laws in harmony therewith, but shall not alter nor repeal any by-laws adopted by the stockholders of the Company.

I hereby certify that the foregoing are the By-laws of the Colville Carbonate Company adopted by the stockholders thereof duly assembled in their first meeting on the 9th day of March, 1903, at the office of the Company, No. 170 Broadway, New York City.

In Testimony Whereof, I have hereunto affixed my official signature and the corporate seal of said corporation on this 10th day of March, 1903.

{ CORPORATE SEAL. }

CHARLES E. WARREN,
Secretary.

The foregoing by-laws may be adapted to the use of a New Jersey corporation by a few changes and additions. In Section 5 of Article II the phrase " after the first election " should be omitted, as the New York provision that the first election shall be conducted by inspectors appointed by the board of directors named in the certificate of incorporation does not obtain in New Jersey. At the end of the section mentioned should be added the following provision:

> " No person who is a candidate for the office of Director shall act as inspector of such election."

Also Sections 2 and 3 Article III, should be modified, if meetings of the directors are to be held outside the State. This right is not allowed by the New York statutes, but is expressly permitted by the New Jersey laws, " if the by-laws or certificate of incorporation so provide." The directors may be given the right to designate their own place of meeting, but, generally, the regular place of meeting is fixed by the by-laws. If these regular meetings of the directors of a New Jersey corporation were to be held in the Albany office of the company, Sections 2 and 3 of Article III in the foregoing by-laws would read as follows:

> " 2. *The Regular Meetings* of the Board of Directors shall be held in the office of the Company in Albany, New York, on the third Tuesday of each month, at 3 P. M.
>
> " 3. *Special Meetings* of the Board may be called to meet in the Albany office of the Company at any time," etc.

Also, if not provided in the charter, or in any event, a provision should be inserted in the by-laws, giving the directors authority to maintain offices outside the State of New Jersey. Such provision would come into Article III as Section 7, the " Order of Business " becoming Section 8, and would read about as follows:

> " 7. *Offices of the Company* may be opened and maintained and the books of the Company, save the stock and transfer books, kept therein, in such place or

places, within or without the State of New Jersey, designated by the Board of Directors, as may in the discretion of the Board be necessary for the transaction of the business of the Company."

In Article V, "Dividends and Finance," a section should be added to show clearly that the directors have full power to reserve such funds as may be necessary before declaring dividends. Unless otherwise provided the directors must, under the New Jersey laws, declare all surplus profits as dividends. This section would come into Article V as Section 1, "Dividends" becoming Section 2, and "The Moneys of the Company" becoming Section 3, and might read as follows:

> "1. *A Working Capital* of such amount as may, in the judgment of the Board of Directors be necessary or advisable, shall be set aside from surplus profits each year before any dividends are declared therefrom, and such working capital shall be used for such purpose or purposes connected with the business of the Company as the Board may direct."

With the modifications and additions mentioned, the set of by-laws given will conform to all the requirements of the New Jersey laws.

Form 22.—By-Laws. Long Set.

.....

BY-LAWS

OF THE

SHAWMUT COAL COMPANY.

Incorporated under the Laws of New Jersey.

ARTICLE I.—STOCK.

SEC. 1. *Certificates of Stock.*

Each stockholder of the Company whose stock has been paid for in full shall be entitled to a certificate or certificates showing the amount of stock of the Company standing on the books in his name. Each certificate shall be numbered, bear the signatures of the President and Treasurer and the seal of the Company, and be issued in numerical order from the stock certificate book. A full record of each certificate of stock, as issued, must be entered on the corresponding stub of the stock certificate book.

SEC. 2. *Transfers of Stock.*

Transfers of stock shall be made upon the proper stock books of the Company, and must be accompanied by the surrender of the duly endorsed certificate or certificates representing the transferred stock. Surrendered certificates shall be canceled and attached to the corresponding stubs in the stock certificate book and new certificates issued to the parties entitled thereto. The stock books shall be closed to transfers twenty days before general elections and twenty days before dividend days.

SEC. 3. *Lost Certificates.*

The Board of Directors may order a new certificate, or certificates, of stock to be issued in the place of any certificate or certificates of the Company alleged to have been lost or destroyed, but in every such case the owner of the lost certificate or certificates shall first cause to be given to the Company a bond in such sum, not less than the par value of such lost or destroyed certificate or certificates of stock, as said Board may direct, as indemnity against any loss or claim that the Company may incur by reason of such issuance of stock certificate; but the Board of Directors may, in their discretion, refuse to replace any lost certificate, save upon the order of some court having jurisdiction in such matter.

SEC. 4. *Stock and Transfer Books.*

The stock and transfer books of the Company shall be kept in its principal office, No. 525 Main Street, East Orange, New Jersey, and shall be open during business hours to the inspection of any stockholder of the Company. All other books and records of the Company shall be kept in its office, in New York City, and shall include a stock book which shall be open during business hours to the inspection of any stockholder or judgment creditor of the Company.

SEC. 5. *Preferred Stock.*

The capital stock of this Company shall be One Hundred Thousand Dollars, consisting of One Thousand Shares, each of the par value of One Hundred Dollars. Of these, Five Hundred Shares shall be preferred stock, and Five Hundred Shares shall be common stock.

Said preferred stock shall receive from the net earnings of the Company a six per cent., annual, cumulative dividend before any dividends are paid upon the common stock, but such stock shall not entitle the holders thereof to vote at the meetings of the stockholders of the Company.

SEC. 6. *Treasury Stock.*

All issued and outstanding stock of the Company that may be donated to, or be purchased by, the Company, shall be treasury stock and shall be held subject to disposal by the action of the Board of Directors. Such stock shall neither vote nor participate in dividends while held by the Company.

ARTICLE II.—STOCKHOLDERS.

SEC. 1. *Annual Meetings.*

The regular annual meetings of the stockholders shall be held in the office of the Company at No. 525 Main Street, East Orange, New Jersey, at 12 M. on the second Monday of January in each year. At this meeting

the directors for the ensuing year shall be elected, the officers of the Company shall present their annual reports, and the Secretary shall have on file for inspection and reference an alphabetical list of the stockholders, giving the amount of stock held by each as shown by the stock books of the Company twenty days before the date of such annual meeting.

SEC. 2. *Special Meetings.*

Special meetings of the stockholders may be held at any time in the office of the Company, pursuant to a resolution of the Board of Directors, or by a call signed by stockholders holding a majority of the voting stock of the Company. Calls for special meetings shall specify the time, place and object or objects thereof, and no other business than that specified in the call shall be considered at any such meeting.

SEC. 3. *Notice of Meetings.*

A written or printed notice of every regular or special meeting of the stockholders, stating the time and place, and, in case of special meetings, the objects thereof, shall be prepared and mailed by the Secretary, postage prepaid, to the last known post-office address of each stockholder, at least ten days before the date of any such meeting.

SEC. 4. *Voting.*

Only stockholders of record shall be entitled to vote at the regular and special meetings of stockholders. At such meetings each stockholder shall be entitled to one vote for each share of stock held in his name.

SEC. 5. *Election of Directors.*

At the first meeting of the stockholders a Board of seven Directors shall be elected, who shall serve until the election and acceptance of their duly qualified successors. Thereafter at each annual meeting of the stockholders of the Company seven Directors shall be elected, who shall serve until the election and acceptance of their duly qualified successors. All elections for directors shall be by ballot, and the candidates, to the number to be elected, receiving the highest number of votes shall be declared elected.

If for any reason directors are not elected at the regular meeting of stockholders, a special meeting shall be called for the purpose within thirty days thereafter, at which directors shall be elected in all respects as at the annual meeting.

Two inspectors of election shall be appointed by the President to conduct the election of directors to serve for the ensuing year. These inspectors shall be sworn to the faithful discharge of their duty, and shall then take charge of the election. No person who is a candidate for the office of director shall act as an inspector of election.

SEC. 6. *Quorum.*

A majority of the outstanding stock, exclusive of treasury stock, shall be necessary to constitute a quorum at meetings of stockholders. When a quorum is present at any meeting, a majority of the stock represented thereat shall decide any question brought before such meeting. In the absence of a quorum, those present may adjourn the meeting from day to day, but until a quorum is secured may transact no business.

SEC. 7. *Proxies.*

Any stockholder entitled to vote may be represented at any regular or special meeting of stockholders by a duly executed proxy. Proxies shall

be in writing and properly signed, but shall require no other attestation. No proxy shall be recognized unless executed within eleven months of the date of the meeting at which it is presented.

SEC. 8. *Officers of Meetings.*

The President, if present, shall preside at all meetings of the stockholders. In his absence, the next officer in due order who may be present shall preside. For the purposes of these by-laws, the due order of officers shall be as follows: President, Vice-President and Treasurer.

The Secretary of the Company shall keep a faithful record of the proceedings of all stockholders' meetings.

SEC. 9. *Order of Business.*

The order of business at the annual meeting and, so far as practicable, at all other meetings of the stockholders shall be as follows:

1. Calling of Roll.
2. Proof of due notice of Meeting.
3. Reading and disposal of any unapproved Minutes.
4. Annual Reports of Officers and Committees.
5. Election of Directors.
6. Unfinished Business.
7. New Business.
8. Adjournment.

ARTICLE III.—DIRECTORS.

SEC. 1. *Number and Authority.*

A Board of seven Directors shall be elected, who shall have entire charge of the property, interests, business and transactions of the Company, with full power and authority to manage and conduct the same.

SEC. 2. *Qualifications.*

No person shall be elected, nor shall be competent to act as a director of this Company, unless he is at the time of election the holder of record of at least one share of its stock. At least one of the directors of the Company must be resident in the State of New Jersey.

SEC. 3. *Vacancies.*

Any vacancy occurring in the Board of Directors may be filled for the unexpired term by a majority vote of the remaining members. In event of the membership of the Board falling below the number necessary for a quorum, a special meeting of the stockholders shall be called and such number of directors shall be elected thereat as may be necessary to restore the membership of the Board to its full number.

SEC. 4. *Regular Meetings.*

The regular meetings of the Board of Directors shall be held in the office of the Company, in the City of New York, at 3 P. M., on the second Monday of each month.

SEC. 5. *Special Meetings.*

Special meetings of the Board of Directors may be held at any time in the office of the Company, in the City of New York, on the written call of the President or of any three members of the Board. Special meetings

may be held at any time and place, and without notice, by unanimous consent of the Board.

SEC. 6. *Notice of Meetings.*

The Secretary shall notify each member of the Board of all regular or special meetings, by mailing to each member's last known post-office address, postage prepaid, at least five days before any such meeting, a written or printed notice thereof, giving the time, place, and, in case of special meetings, the objects thereof; and no other business shall be considered at any such meeting than shall have been so notified to the members.

SEC. 7. *Quorum.*

A majority of the Board of Directors shall constitute a quorum, and a majority vote of the members in attendance at any Board meeting shall, in the presence of a quorum, decide its action. A minority of the Board present at any regular or special meeting may, in the absence of a quorum, adjourn to a later date, but may not transact any business until a quorum has been secured.

SEC. 8. *Election of Officers.*

At the first meeting of the Board of Directors after the election of directors each year a President, Vice-President, Secretary, Treasurer, General Manager, and Counsel, shall be elected to serve for the ensuing year and until the election of their respective successors. Election shall be by ballot, and a majority of the votes cast shall be necessary to elect. If not detrimental to the business or operations of the Company, any two offices may be conferred upon one person. The directors shall fix the compensation of officers, subject to the limitations of the Charter and the By-laws. Any vacancies that occur may be filled by the Board for the unexpired term. The Board shall have the right to remove any officer for cause by a two-thirds vote of the entire membership of the Board.

SEC. 9. *Compensation of Directors.*

Each director shall receive the sum of five dollars as compensation for his attendance at any regular or special meeting of the Board of Directors, and shall receive no other salary or compensation for his services as a director of the Company.

SEC. 10. *Power to Pass By-laws.*

The Board of Directors shall have no power to amend, alter or repeal the by-laws, but may pass such additional by-laws in conformity therewith as may be necessary or convenient to facilitate the business of the Company.

SEC. 11. *Executive Committee.*

The President, Vice-President and Treasurer shall together constitute an Executive Committee which shall be a part of the permanent executive organization of the Company, and shall, in the interim between meetings of the Board of Directors, exercise all the powers of that body in accordance with the general policy of the Company and the directions of the Board.

Meetings of the Executive Committee shall be held on call of the President, or of any two members of the Committee. All of the members of the Committee must be duly notified of meetings, and a majority of the

members shall constitute a quorum. The Executive Committee shall keep due record of all meetings and actions of the Committee, and such records shall at all times be open to the inspection of any director.

SEC. 12. *Corporation Offices.*

The principal office of the Company, within the State of New Jersey, shall be at 525 Main Street, East Orange, and the agent therein and in charge thereof upon whom process may be served shall be the Registration and Trust Company. An office shall also be maintained in New York City, and such other offices for the transaction of its business shall be maintained at such other places, in or outside of said State, as may be determined upon by the Board of Directors.

SEC. 13. *Order of Business.*

The regular order of business at meetings of the Board of Directors shall be as follows:

1. Reading and disposal of any unapproved Minutes.
2. Reports of Officers and Committees.
3. Unfinished Business.
4. New Business.
5. Adjournment.

ARTICLE IV.—OFFICERS.

SEC. 1. *Enumeration, Election and Qualifications.*

The officers of the Company shall be a President, Vice-President, Treasurer, Secretary, General Manager, and Counsel. These officers shall be elected by the Board of Directors at the first regular meeting after the election of directors each year, and shall hold office for the term of one year, and until their respective successors are duly elected and qualify. The President and Vice-President shall be elected from among the Board of Directors.

SEC. 2. *The President.*

The President, when present, shall preside at all meetings of the stockholders and of the Board of Directors; shall sign all certificates of stock; shall sign or countersign, as may be necessary, all such bills, notes, checks, contracts and other instruments as may pertain to the ordinary course of the Company's business; and sign, when duly authorized thereto, all contracts, orders, deeds, liens, licenses and other instruments of a special nature.

He may also, in the absence or disability of the Treasurer, endorse checks, drafts and other negotiable instruments for deposit or collection, and shall, with the Secretary, sign the minutes of all meetings over which he may have presided.

At the first regular meeting of the Board in January he shall submit a complete report of the operations of the Company for the preceding year, together with a statement of the Company affairs as existing at the close of such year, and shall submit a similar report at the annual meeting of stockholders; also, he shall report to the Board of Directors, from time to time, all such matters coming within his notice and relating to the interests of the Company, as should be brought to the attention of the Board.

He shall be, ex-officio, a member of all standing committees, shall have such usual powers of supervision and management as may pertain to the office of President, and perform such other duties as may be properly required of him by the Board of Directors.

SEC. 3. *The Vice-President.*

The Vice-President shall familiarize himself with the affairs of the Company, and, in the absence, disability or refusal to act of the President, shall possess all of the powers and perform all of the duties of that officer.

SEC. 4. *The Secretary.*

The Secretary shall keep full minutes of all meetings of the stockholders and of the Board of Directors; shall read such minutes at the proper subsequent meetings; shall issue all calls for meetings and notify all officers and directors of their election; shall have charge of, and keep, the seal of the corporation, and affix the same to certificates of stock when such certificates are signed by the President and Treasurer, and shall affix the seal attested by his signature, to such other instruments as may require the same.

He shall keep the stock certificate book and the other usual corporation books, and shall prepare, record, transfer, issue, seal and cancel certificates of stock as required by the transactions of the Company and its stockholders. He shall also sign, with the President, all contracts, deeds, licenses and other instruments when so ordered.

He shall make such reports to the Board of Directors as they may request, and shall also prepare such reports and statements as are required by the State laws. He shall make out, twenty days before any election of directors, a complete list of the stockholders entitled to vote at such election, arranged in alphabetical order, and giving the number of shares of stock that may be voted by each, and shall keep the same open to inspection at the office of the Company until the time of, and during, the said election. He shall allow any stockholder, on application in business hours, to inspect the stock certificate book, the stock transfer book and the stock ledger.

He shall attend to such correspondence, and to such other duties, as may be incidental to his office, or properly be assigned him by the Board.

He shall receive such salary, not exceeding twelve hundred dollars per annum, as may be fixed by the Board of Directors.

SEC. 5. *The Treasurer.*

The Treasurer shall have the custody of, and be responsible for, all moneys and securities of the Company; shall keep full and accurate records and accounts in books belonging to the Company, showing the transactions of the Company, its accounts, liabilities and financial condition, and shall see that all expenditures are duly authorized and are evidenced by proper receipts and vouchers. He shall deposit in the name of the Company, in such depository or depositories as are approved by the Directors, all moneys that may come into his hands for the Company account. His books and accounts shall be open at all times during business hours to the inspection of any director of the Company.

The Treasurer shall also endorse for collection or deposit all bills, notes, checks and other negotiable instruments of the Company; shall pay out money as may be necessary in the transactions of the Company, either by special or general direction of the Board of Directors, and on checks signed by the President and himself, and shall generally, together with the President, have supervision of the finances of the Company.

He shall also make a full report of the financial condition of the Company for the annual meeting of stockholders, and shall make such other reports and statements as may be required of him by the Board of Directors or by the laws of the State.

He shall give bond in the sum of five thousand dollars, with sureties satisfactory to the Board of Directors, for the faithful performance of his duties and for the restoration to the Company in event of his death, resignation or removal from office, of all books, papers, vouchers, money and other property belonging to the Company that may have come into his custody. He shall receive such compensation, not exceeding eighteen hundred dollars per annum, as may be fixed by the Board of Directors.

SEC. 6. *The General Manager.*

The General Manager shall, under the supervision of the Board of Directors and the President, have charge of and manage the active business operations of the Company. He shall perform such further duties and make such reports as may be required of him by the Board of Directors, and shall receive such salary, not exceeding twenty-four hundred dollars per annum, as may be fixed by the Board.

SEC. 7. *Counsel.*

Counsel of the Company shall prepare all such contracts and agreements required in the business of the Company as may be referred to him by its officers; and shall inspect and pass upon all such instruments presented to the Company as may be of sufficient importance to justify such examination; also he shall advise with the officers of the Company in all such legal matters pertaining to the affairs of the Company as may require his consideration. He shall receive such annual retainer, not exceeding six hundred dollars per annum, as may be fixed by the Board of Directors.

ARTICLE V.—DIVIDENDS AND FINANCES.

SEC. 1. *Dividends.*

Dividends shall be declared at such times as the Board may direct, but no dividend shall be declared or paid, save from surplus profits remaining after all current liabilities of the Company have been fully paid; nor shall any dividend be declared that would impair the capital of the Company.

SEC. 2. *Reserve Fund.*

No dividend to exceed six per cent. per annum shall be declared by the Board of Directors until there shall have been accumulated from surplus profits a reserve fund of ten thousand dollars, such fund to be used for the extension or enlargement of the business of the Company and the betterment of its plant, or for such other purposes as may be necessary or advisable.

SEC. 3. *Debt.*

No debt shall be contracted, nor liability incurred, nor contract made by or on behalf of this Company in excess of one thousand dollars, unless the same be authorized or directed by the By-laws or by a duly recorded two-thirds vote of the entire Board of Directors at a regular meeting, or at a special meeting called for the purpose.

SEC. 4. *Bank Deposits.*

The Treasurer shall deposit the moneys of the Company as the same may come into his hands, in such depository or depositories as may be designated by the Board of Directors, and such deposits shall be made in the name of the Company, and moneys shall be withdrawn therefrom only by check signed by the Treasurer and countersigned by the President.

ARTICLE VI.—SUNDRY PROVISIONS.

SEC. 1. *Corporate Seal.*

The corporate seal of the Company shall consist of two concentric circles, between which shall be the name of the Company, and in the centre shall be inscribed "Incorporated 1903, New Jersey," and such seal, as impressed on the margin hereof, is hereby adopted as the Corporate seal of the Company.

SEC. 2. *Penalties.*

Any officer, director or stockholder who shall disobey or violate any of the provisions of these by-laws shall be fined in an amount not to exceed twenty dollars, such fine to be imposed by the Board of Directors, and, if not paid at the time, to be deducted from any salary or dividend then due or that may thereafter become due said person.

SEC. 3. *Amendment.*

These by-laws may be amended, repealed or altered, in whole or in part, at any regular meeting of the stockholders, or at any special meeting where such action has been duly announced in the call, provided that a majority of the entire voting stock of the Company shall vote for such amendment, repeal or alteration.

The Board of Directors shall have no power to amend, alter or repeal the by-laws, but may pass such additional by-laws in conformity therewith as may be necessary or convenient to facilitate the business of the Company.

.....

In connection with these by-laws reference should be made to the text in Part II relating to each subject. There are only such trifling differences between the by-laws given here and those discussed in Part II as are made necessary by the few conflicting provisions of the New York and New Jersey laws. The comments and references are applicable to both states and should be found of assistance to any one engaged in compiling by-laws.

CHAPTER XXII.

PROXIES.

The proxy is merely a special power of attorney. Given by the owner of stock it authorizes the party named therein to represent the owner at stockholders' meetings of the particular company. Proxies vary greatly as to formality and the extent of authority conveyed. The forms which follow cover a sufficiently wide scope to meet—with suitable modifications—the requirements of almost any case.

The ordinary proxy may be revoked by the maker at any time, even though it specify in the proxy itself that it is irrevocable, or that it is to extend or last over a certain stated time. A revocation of a proxy should be in writing and be filed with the secretary, though the mere presence of the owner of stock at a meeting, with the expressed intention of voting his stock thereat, would have the practical effect of revoking for that meeting all his outstanding proxies. Should the owner of stock issue a proxy while a conflicting, prior one is outstanding, he should incorporate in the second proxy a revocation of the first. Should he not do so, the presentation of the more recent proxy would have the practical effect of revoking the first, but the absence of any formal revocation would excite comment and might make trouble.

A proxy limited to a certain meeting or time expires and ends with that particular meeting or time without revocation. It should be noted that in many states the life of proxies is limited by statute.

A proxy given for a particular meeting holds good for any meeting adjourned therefrom, though it is usual to specify in

the proxy that this is the case. Directors cannot give proxies authorizing others to represent and vote for them at directors' meetings.

Proxies should be signed and sealed by the maker and witnessed by at least one person, but do not ordinarily require acknowledgment. Where proxies are given, as is frequently done, merely to insure the presence of a quorum at a meeting, they are usually sent to the secretary, duly signed and witnessed, but with the name of the party appointed thereby omitted. At the time of meeting any convenient name is filled in and the proxy becomes effective.

Blank proxies, as they are called when the proxy is duly executed but the name of the party appointed is omitted, are also employed in any case where the name of the party to act has not been definitely decided upon, or where it is immaterial. The device is convenient and entirely legal. When once the name has been filled in, however, the proxy can only be used by the specified party, nor can this party authorize any one else to vote the stock covered by his proxy unless that document distinctly confers upon him full rights of substitution. (See Form 25.) (See § 56 for general subject of proxies.) A proxy may cover all or any part of the stock owned by an individual, and two or more proxies may be given by any stockholder, each proxy covering part of his holding.

Form 23.—Simple Proxy. Unlimited.

.....

PROXY.

Know All Men By These Presents, That I, the undersigned, do hereby constitute and appoint George R. Ridgway my true and lawful attorney to represent me at all meetings of the stockholders of the Collis Machine Company, and for me and in my name and stead to vote thereat upon the stock standing in my name on the books of said Company at the times of said meetings, and I hereby grant my said attorney all the powers that I should possess if personally present at such meetings.

Witness my signature and seal this 10th day of January, 1903.

In presence of HERBERT S. WINDOM. WILLIAM H. FALKNER. [L. S.]

.....

This proxy is short and simple as to form, but is somewhat broad in its scope. It is unlimited as to time, and, until revoked or terminated by some statutory limitation, applies to every stockholders' meeting, regular, special or adjourned. It authorizes the appointee to participate in any way that any stockholder might at such meetings, and, generally, places the appointee in the position of the owner of the stock himself in reference to any corporate action.

Form 24.—Simple Proxy. Time Limited.

.....

PROXY.

Know All Men By These Presents, That I, the undersigned, do hereby constitute and appoint George R. Ridgway my true and lawful attorney to represent me at all meetings of the stockholders of the Collis Machine Company held on or before the 15th day of January, 1903, and, for me and in my name and stead, to vote at said meetings upon the stock now standing in my name on the books of said Company, and I hereby grant my said attorney all the power that I should possess if personally present at such meetings.

Witness my signature and seal this 10th day of January, 1903.

In presence of HERBERT S. WINDOM. WILLIAM H. FALKNER. [L. S.]

.....

This proxy authorizes the appointee to represent the maker fully at all corporate meetings for the specified term, but, at the expiration of that time, it becomes null and void without any formal revocation or other action on the part of the maker. It should be noted that the wording of the above proxy only authorizes the appointee to vote upon the stock "now" owned by the maker. Should this latter acquire additional stock of the company later than January 10th, 1903, it would not be covered by this proxy. By substituting the word "then" for "now," or by using the wording of the preceding proxy (Form 23) as to this feature, all stock acquired prior to the time of meeting would be covered.

Form 25.—Simple Proxy. Particular Meeting.

PROXY.

Know All Men By These Presents, That I, the undersigned, do hereby constitute and appoint George R. Ridgway my true and lawful attorney, with full power of substitution and revocation, to represent me at the special meeting of stockholders of the Collis Machine Company to be held on the 20th day of January, 1903, at 10 A. M., and, for me and in my name and stead, to vote at said meeting, and at any adjournments thereof, upon the stock standing in my name on the books of said Company upon which I may be entitled to vote at the date of said meeting, and I hereby grant my said attorney all the powers that I should possess if personally present at said meeting.

Witness my signature and seal this 10th day of January, 1903.

In presence of HERBERT S. WINDOM. WILLIAM H. FALKNER. [L. S.]

This proxy is limited to one particular meeting, but otherwise is quite extended as to the powers granted. It covers all the stock now owned by the maker or that may be owned at the time of the meeting, and empowers the appointee to give proxies to others to vote such stock and to revoke these other proxies at will. If it is not desired to convey these latter powers, the words " with full power of substitution and revocation " should be omitted.

Should all of the stock covered by a proxy be disposed of by the owner before the date of meeting, such proxy would be thereby nullified. If part of the stock were sold the proxy would still hold for the stock unsold.

Form 26.—Formal Proxy. Annual Meeting.

PROXY.

Know All Men By These Presents, That we, the undersigned, stockholders of the American Steel Casting Company, do hereby constitute and appoint John W. Gillett our true and lawful attorney, with full power of substitution and revocation, for us and in our names, place and stead, to vote upon the stock then standing in our respective names upon the books of said Company, at the annual meeting of the stockholders thereof, to be held in the office of the Company, 22 Broad street, New York City, January 10th, 1903, at 10 A. M., and at any meeting postponed or adjourned therefrom, hereby granting to our said attorney full power and authority to act for us at said meeting, and, in our names and stead, to vote thereat upon our said stock in the election of directors and in the transaction of such other business as may be brought before the said meeting, all as fully as we might

or could do if personally present, and we hereby ratify and confirm all that our said attorney, or his substitute, shall lawfully do at such meeting in our names, place and stead.

In Witness Whereof, we have hereunto affixed our signatures and seals this 5th day of January, 1903.

WILLIS H. EVERETT. [L. S.]
SARGENT T. JASPER. [L. S.]
In presence of HENRY B. EVANS. [L. S.]
HARRY B. JASPER
as to Willis H. Everett.
HENRY S. ALLSWORTH
as to Sargent T. Jasper
and Henry B. Evans.

.....

Where matters of considerable importance are to be considered and passed upon, and, under other circumstances, where formality and a very complete statement are desirable, this more formal proxy will be found suitable. It does not convey any greater or more complete powers than the shorter forms heretofore considered, but it is more specific and more conventional, and will be found more satisfactory under some conditions.

Form 27.—Formal Proxy. For Specific Action.

.....

PROXY.

Whereas, A special meeting of the stockholders of the American Steel Casting Company has been called to meet at the office of said Company, No. 22 Broad Street, New York, at 10 A. M., on the 19th day of January, 1903, at which meeting a proposition is to be submitted to the stockholders, involving the sale of the entire manufacturing property of the said Company, and

Whereas, The undersigned, a stockholder in the said American Steel Casting Company, is opposed to the said sale and is desirous of having the votes to which he is entitled as a stockholder of said Company cast against such proposed sale of the Company's property,

Now Therefore Be It Known, That I, the undersigned, do hereby constitute and appoint William B. Sherington my true and lawful attorney to attend the said stockholders' meeting and for me and in my name, place and stead, to cast thereat the votes to which I may be entitled as owner of the stock then standing in my name on the books of the said Company against the proposed sale of the Company's manufacturing property, and I do hereby grant my said attorney full power and authority to cast my said vote against such proposed sale, and do hereby ratify and confirm my said attorney's action in so doing.

In Witness Whereof, I have hereunto affixed my signature and seal this 15th day of January, 1903.

In presence of ELSWORTH J. MORRIS. [L. S.]
JAMES W. HAMILTON.

.....

The foregoing proxy authorizes the appointee to vote the specified stock only for the purpose indicated and at that particular meeting. It gives no other power beyond and would not authorize any other vote on that stock or any other action at such meeting.

Form 28.—Corporate Proxy.

.....

PROXY.

Know All Men By These Presents, That the Kanawha Gas Coal Company, a corporation organized under the laws of the State of West Virginia, and holding Three Hundred and Fifty (350) Shares of the Capital Stock of the American Steel Casting Company, of New York City, does hereby constitute and appoint John W. Williams, of 30 Broad Street, New York City, its true and lawful attorney to attend the annual meeting of the aforesaid American Steel Casting Company to be held in the office of that Company, No. 22 Broad Street, January 10th, 1903, at 10 A. M., and thereat, for this Company and in its name, place and stead, to vote upon the said Three Hundred and Fifty Shares of stock and to do such other things at such meeting as, in his judgment, may be necessary or advantageous for the operations of that Company, or for the interests of this Company, and to that end the said Kanawha Gas Coal Company does hereby grant to its said attorney for said meeting any and all powers pertaining to this Company as a stockholder of the aforesaid American Steel Casting Company, hereby ratifying and confirming all that its said attorney may lawfully do at said meeting in the name, place and stead of this Company.

In Witness Whereof, the President and Secretary of the said Kanawha Gas Coal Company, duly authorized thereunto, have hereunto affixed the official signature and seal of their said Company, all being done in the City of Wheeling, West Virginia, on this the 2d day of January, 1903.

KANAWHA GAS COAL COMPANY,
{ CORPORATE } By JOHN T. WILKINS, President.
{ SEAL. } HARVEY T. SEAMANS, Secretary.

.....

This form of proxy would only be used where the stock owned by the company was made out in the corporate name. Often such stock is made out in the name of the secretary or treasurer of the company, as trustee, or in the name of some other party as trustee for the company. There is, however, except where prohibited by state laws, no legal objection to such stock being held in the company's name.

Form 29.—Trustee's Proxy.

PROXY.

Know All Men By These Presents, That I, John H. Wilston, holding in my name as Trustee for the Shenandoah Valley Coal Company, of West Virginia, One Hundred (100) Shares of the Capital Stock of the American Steel Casting Company, of New York City, do, as Trustee for the said Shenandoah Valley Coal Company, hereby constitute and appoint Henry W. James, of New York City, my true and lawful attorney to attend the annual meeting of stockholders of the said American Steel Casting Company to be held in the office of that Company, No. 22 Broad Street, New York City, on the 10th day of January, 1903, at 10 A. M., and for me and in my stead, to vote thereat upon the said One Hundred Shares of stock belonging to the said Shenandoah Valley Coal Company, and I hereby grant the said Henry W. James full power and authority to represent the said stock at the said meeting and to vote thereupon in the election of directors and in the transaction of any other business that may be brought before the said meeting, all as fully as I, as Trustee, might myself do were I personally present thereat, and I, as Trustee for the said Shenandoah Valley Coal Company, do hereby ratify and confirm all that the said Henry W. James shall lawfully do at said meeting by virtue of this present authority.

In Witness Whereof, I have hereunto affixed my signature, as Trustee of the said Shenandoah Valley Coal Company, and my seal, in the City of Wheeling, on this the 3d day of January, 1903.

JOHN H. WILSTON, [L. S.]
Trustee for the Shenandoah Valley Coal Company.

In presence of
WARREN DISSTON.

Where corporate stock is held in the name of the secretary or treasurer, the general form of proxy would be as above. It would be signed by the party himself with his official title affixed, as "John B. Earl, Treasurer," and in the body of the proxy the statement would be made that the stock held by him was in trust for his company.

Form 30.—Revocation of Proxy.

REVOCATION OF PROXY.

I, the undersigned, do hereby revoke and annul any and all proxies or powers of attorney heretofore given by me, as far as the same may authorize or empower any person or persons to represent me, vote in my name and stead, or act for me in any way whatsoever, at any meeting or meetings of the stockholders of the Chilton Plow Company.

Witness my signature and seal this 5th day of June, 1903.

In presence of
HAMPTON B. BYRNES.

SAMUEL B. SERRELL. [L. S.]

The above revocation delivered to the secretary of the company would annul all outstanding proxies for the stock mentioned. If it were desired to except any particular proxy from the general revocation, it should be specifically mentioned, or the above revocation might be limited to the one or more proxies that were to be terminated, and any others then outstanding would be unaffected.

CHAPTER XXIII.

MOTIONS.

In any corporate meeting, whether of stockholders or directors, anything obviously necessary, such as the approval of the minutes of a previous meeting, or the correction of a name or date, might be merely directed by the president, and, in the absence of objection on the part of those present, the thing so done would be held to be the action of the meeting. In matters of more importance, however, or where there is any difference of opinion as to what had best be done, a decision would be reached, and action taken by means of either a motion or resolution.

The motion is the simplest method of formal corporate action. It differs from the resolution in form, and, while there is no clear-cut line of separation between the matters that should be settled by motion, and those that are better disposed of by resolution, the general rule holds good that important actions should be authorized by resolution, while matters of minor importance may be left for motions. (See Chapter XXIV.)

Motions are usually made at the moment when action is required, and, in consequence, are not usually submitted in writing. If the subject matter is of importance, or it is desirable that the exact wording be preserved, the presiding officer will request the maker of the motion to put it in writing. If the motion is carried, this written copy is turned over to the secretary to be incorporated in his minutes. If the motion is not written, the secretary must exercise every care to get the sense

of what is intended, and follow the wording of the maker as far as practicable. The following forms of motions are as they would appear in the secretary's minutes. The form would be the same for either stockholders' or directors' meetings.

Form 31.—To Receive and File Treasurer's Report.

.....

"Upon motion duly seconded and unanimously carried, the Treasurer's Report, as read, was ordered received and filed."

.....

The subject matter of this motion being of minor importance and action upon it being unanimous, the name of the maker is of no importance and need not be recorded.

Form 32.—To Pay Bills.

.....

"Upon motion, duly made and seconded, and unanimously carried, the Treasurer was directed to pay the bills, as presented to the meeting, for March rent and salaries."

.....

Usually the secretary is left to his discretion as to whether the names of the parties making and seconding motions are entered, or otherwise. In the above motion, authorizing routine action and concurred in by all, the names are not essential. In any matters where there is difference of opinion, or a likelihood of subsequent discussion or trouble, the names should be recorded. In matters of much importance the vote is frequently recorded as well.

Form 33.—To Pay Disputed Account.

.....

"Mr. William Morris moved that the account of the Shirley-Wilson Company for supplies furnished, aggregating $235.00, be paid in full. Motion seconded by Mr. H. M. Shepherd and carried, Messrs. Morris, Shepherd and McKane voting in the affirmative and Messrs. Temple and Stanford voting in the negative."

.....

If, in the case of a specially complicated or important motion, the maker were requested to put it in writing, the following form would be suitable.

Form 34.—To Purchase Engines.

.....

"Moved, That the President, Secretary and General Manager of this Company fully investigate the claims of the Simplex Corliss Automatic Engines represented by the Willis & Vrooman Co., and, if such engines are found more efficient under equal conditions than the engines now in use in the shops of this Company, that they be hereby authorized to exchange said present engines for an equal H. P. capacity of the Simplex Corliss Engines, provided that the expenditure necessitated by such exchange shall not exceed the sum of $650.00."

.....

This motion would be handed the president by the maker as soon as written out, and would be read by that officer to the meeting. If duly seconded, the motion would, after discussion, be put to the vote, and, if carried, the written copy would be handed to the secretary for his records. The secretary should incorporate such written motion into his minutes without change of any kind, prefacing it with the statement, "The following motion, offered by Mr. Brown, was duly seconded, and carried by the unanimous vote of all present."

CHAPTER XXIV.

RESOLUTIONS.

Resolutions are the formal expression of corporate action or decision. They are more formal than motions, usually go into their subject matter more fully, and are used for such important corporate actions as require a complete statement and record. Resolutions should always be submitted in writing, and should be entered in the secretary's minutes exactly as adopted. The usual resolutions, such as those which immediately follow, would not require any statement of the exact vote, but would be entered in the minutes, prefaced with the requisite explanatory remarks; as, for example, "Mr. Castleton presented the following resolution, which was duly seconded by Mr. Elliott and unanimously adopted."

Form 35.—To Open Bank Account. (Directors'.)

Resolved, That the Treasurer be and hereby is authorized and instructed to open an account for the Company with the Seaboard National Bank of New York City and to deposit therein all funds of the Company coming into his custody, such account to be in the name of the Company and funds deposited therein to be withdrawn only by check, signed by the Treasurer and countersigned by the President.

Form 36.—To Authorize Execution of Contract. (Directors'.)

Resolved, That the President and Secretary be hereby authorized and instructed to enter into a contract in the name of, and on behalf of this Company, with the Wilbur-Collins Construction Company for the erection of a brick boiler house, the construction of such house to be in accordance with the plans and specifications on file in the office of this Company, and the price and terms of payment therefor to be in accordance with the written proposition submitted by said Wilbur-Collins Construction Company.

Form 37.—To Declare Dividend. (Directors'.)

.....

Resolved, That the sum of Two Thousand Dollars be and hereby is appropriated and set aside from the surplus profits of this Company for the payment of the regular two per cent. quarterly dividend upon its outstanding stock, said dividend to be due and payable on the 10th day of January, 1903.

Resolved Further, That the Treasurer of this Company be authorized and instructed to notify the stockholders of such dividend and to pay the same when due.

.....

Form 38.—To Appoint Managing Director. (Directors'.)

.....

Resolved, That Mr. William S. Weston be and hereby is appointed Managing Director of this Company, with general supervision and direction of its business interests and with such other powers as the Board of Directors of this Company may from time to time confer upon him, but without salary unless hereafter expressly granted by formal resolution of this Board.

.....

Form 39.—To Call Special Meeting of Stockholders. (Directors'.)

.....

Resolved, That a special meeting of the stockholders of this Company be called to meet in the office of the Company, No. 25 Maiden Lane, New York, on the 15th day of April, 1903, at 10 A. M., for the purpose of considering and acting upon proposed amendments to the by-laws of the Company, as follows:

1. To give the Directors power to fill vacancies occurring in the Board.
2. To create the offices of Second Vice-President and of Managing Director and to define the duties thereof.
3. To provide that five days' notice be given of each regular meeting of the Board of Directors.

.....

Form 40.—To Ratify Sale of Property. (Directors'.)

.....

Whereas, The President and Treasurer of this Company have heretofore, on the 22d day of June, 1903, sold and disposed of the machinery, tools and other apparatus belonging to this Company and at that time in the premises No. 235 Hamilton St., Newark, New Jersey; said property being sold, in the name of the Company, to the Wells Machinery Company of Jersey City for the sum of $2,750, of which amount $1,000 was paid in cash and the balance by note of the said Wells Machinery Co., at ninety days, with interest at 6% until paid; and

Whereas, At the time said officers of the Company were unable to secure the authority of the Board of Directors for said sale on account of the absence of a majority of the members of said Board from the City, but the proposition made involving an immediate decision, acted in the matter on their own responsibility, and as seemed to them for the best interests of the Company; and

Whereas, Said sale meets with the approval of the Board of Directors of this Company and said Board is desirous of ratifying and confirming the same;

Now Therefore Be It Resolved, That the action of the said officers of this Company in selling and disposing of the aforementioned property, as aforesaid, is hereby ratified, approved and confirmed, and the said sale is accepted as the sale of the Company, and the assignments therein are ratified, confirmed and accepted as the duly executed assignments of this Company, and as of the same force and effect as if entered into under the direct instructions of this Board.

.....

Form 41.—To Authorize Sale of Entire Assets. (Stockholders'.)

.....

Whereas, A certain proposition has been made by Wm. F. Gaynor and Jas. P. O'Reilley, as Trustees for the organization of the New Hampshire Granite Company, to purchase the entire plant and assets of this Company, save cash in bank, for $10,000 in cash and $40,000 par value of the stock of said New Hampshire Granite Company; and

Whereas, Said proposition is approved by the stockholders of this Company;

Be It Resolved, That the Directors of this Company be, and hereby are, authorized, instructed and empowered to accept the said proposition for the purchase of its assets, and to do all things necessary to carry such acceptance into effect according to the terms of said proposition.

.....

The directors, until authorized thereto by unanimous action of all the stockholders, have no authority to sell the entire assets of a company, unless it were insolvent or in a failing condition. The object of the preceding resolution and the one which follows is to secure for the directors the power to act. Resolutions of this nature must usually be adopted by the unanimous vote of all the stockholders. If otherwise, the dissenting or non-participating stockholders might intervene to prevent the proposed sale, or might be able later to set the sale itself aside. In a corporation where the stock was in many hands, it would be difficult to get all the stockholders to agree to such a sale, but in the smaller or close corporations it is not infrequently done. By statute, in New York, two-thirds in interest of the stockholders may effect a sale of the entire assets to another domestic corporation provided they buy the stock of all dissenting stockholders at a duly appraised value.

Form 42.—To Authorize Sale of Entire Assets. Conditional. (Stockholders'.)

.....

Whereas, A certain proposition has been made by the Cumberford Silk Manufacturing Company of Paterson for the purchase of the entire property of this Company, save cash in bank and bills and accounts receivable, the consideration offered being $150,000 in cash and $150,000 face value of stock in a certain new corporation to be formed for the purpose of taking over the business and properties of the two Companies; and

Whereas, The stockholders of this Company are favorably impressed with said proposition, but believe that a full legal investigation of the whole matter should be made before proceeding further;

Now Therefore Be It Resolved, That the stockholders of this Company do hereby instruct and authorize the Directors of the Company to employ such competent legal assistance as may be necessary to investigate and report upon said proposition in all its phases, and, if such investigation shall show that there are no legal objections to the contemplated sale, to accept the said proposition, and to do all things necessary to carry such acceptance into effect.

.....

For manner of entering the above resolution in minutes see Minutes of Adjourned Special Meeting of Stockholders, Form 96.

Form 43.—To Sell Entire Assets. (Directors'.)

.....

Whereas, A certain proposition has been made by the Trustees for the Organization of the New Hampshire Granite Company to purchase the entire plant and assets of this Company for $10,000 in cash and $40,000 in stock of the said proposed corporation, as set forth in their written proposition heretofore ordered to be spread upon the minutes of this meeting; and

Whereas, The stockholders of this Company in duly assembled meeting, at which all the voting stock of the Company was represented, by resolution unanimously carried, have authorized this Board to accept and carry into effect said proposition;

Now Therefore Be It Resolved, That the said proposition be and the same is hereby accepted by this Company as set forth in said written proposals and entered upon the minutes of this meeting, and the proper officers of the Company are hereby authorized and empowered to execute all proper instruments to carry such acceptance into force and effect, and to do all other things necessary in connection with such sale and the subsequent transfer of property.

.....

Upon the passage of this resolution, or prior thereto, the proposal upon which it is based would, either by motion, or by direction of the presiding officer, be ordered spread upon the minutes of the meeting. The resolution following such entry

of the proposal constitutes a complete and formal acceptance thereof.

Form 44.—To Authorize Issuance of Stock for Property. (Stockholders'.)

.....

Whereas, A proposition has been received from Mr. Wilson M. Adair offering to sell, assign and convey to this Company the property at Greenpoint, Long Island, known as the Adair Manufacturing Plant, all as set forth in said proposition, in exchange for the entire capital stock of this Company, to be issued full-paid and non-assessable to the order of the said Wilson M. Adair; and

Whereas, It appears to the stockholders of this Company that the said property is desirable for the purposes of this Company and is reasonably worth the purchase price thereof;

Now Therefore Be It Resolved, That the said proposition for the exchange of said property for the entire capital stock of this Company, as set forth in said proposition, be and hereby is approved, and the Board of Directors of this Company are hereby authorized, empowered and instructed to accept the said proposition, and to cause the entire capital stock of the Company to be issued for the said property in accordance with its terms.

.....

Where a company has been organized for the purpose of taking over property in payment for its stock, a resolution similar to the foregoing would be adopted at the first meeting of the stockholders. See Form 91, "Minutes of First Meeting of Stockholders."

Form 45.—To Issue Stock for Property. (Directors'.)

.....

Whereas, The property offered in exchange for the capital stock of this Company by Mr. Wilson M. Adair in his proposition to the Company is adjudged by this Board to be of the reasonable value of Fifty Thousand ($50,000) Dollars, and to be necessary for the use and lawful purposes of this Company;

Be It Resolved, That the said property be and hereby is, in accordance with the authorization and instructions of the stockholders of this Company, accepted in full payment for the said capital stock of the Company in accordance with the terms of said proposition, and the proper officers of this Company are hereby authorized and directed to receive the duly executed transfers and assignments of the property specified in said proposition, and to issue in exchange therefor the entire stock of the Company, full-paid and non-assessable, to such person or persons as may be designated by the written orders of the aforementioned Wilson M. Adair, except as to the shares subscribed for by the incorporators, which shall be issued to them or their order.

.....

Inasmuch as the written proposition for exchange of property for stock would be entered in full in the minutes of the directors' meeting at which the above resolution would be adopted, a lengthy preamble is not required. See "Minutes of First Meeting of Directors," Form 94. See also Chapter XXVII. "Exchange of Property for Stock," for form of proposition and for further information on this subject.

CHAPTER XXV.

RESIGNATIONS.

Form 46.—Resignation of Director.

.....

To the Board of Directors
of the CANSO CABLE COMPANY:

GENTLEMEN—I hereby tender my resignation as a member of your body, my frequent absences from the City rendering proper attention to my duties as a Director of the Company impossible.

Yours very respectfully,
HENRY M. STANTON.

New York City,
June 1, 1903.

.....

The above resignation is somewhat informal, but is a customary form where the relations amongst the directors are friendly. It is so worded that action of the board is necessary to make it effective. A statement of the reason for resigning is not essential, but is usually given. In accepting such a resignation, if the party submitting same were present at the meeting, the acceptance would usually be worded to take effect at the close of the meeting. If accepted without any such qualification, its effect would be immediate; and the party resigning would cease to be a member of the board at the instant of acceptance.

Sometimes a director is elected temporarily to fill a vacancy until a permanent incumbent may be selected. In such a case, the temporary director's resignation would be secured and filed with the secretary at the time of election. Then when a suitable person for permanent director was found, the resignation on file would be accepted and his successor at once elected. The following form of resignation would be suitable under such circumstances:

Form 47.—Resignation of Director. Effective on Acceptance.

.....

To the Board of Directors
of the JERSEY CITY MILLING COMPANY:

GENTLEMEN—I hereby tender my resignation as a member of your body to take effect upon your acceptance of same.

Very respectfully,

JOHN N. MCNAIR.

Jersey City, New Jersey,
July 25, 1903.

.....

Such a resignation would not affect the status of the party as a director until its acceptance, and holds good, unless formally withdrawn, until his term as a director expires. If he were again elected to his position as a director, the old resignation would be of no further effect and would have to be renewed if his same uncertain tenure of office were to be maintained.

It should be borne in mind that the party tendering such a resignation has the right to withdraw it at any time prior to its acceptance, and that in such event he could not be removed from his position on the board until the end of his term. If it were desired to remove the possibility of such a contingency, the resignation should be accepted as soon as tendered, such acceptance to take effect upon the election of his successor.

The final clause of the foregoing resignation is of no further direct effect than to show its intent, as a resignation "tendered" could not take effect until accepted.

Form 48.—Resignation of Director. Immediate.

.....

To the Board of Directors
of the WILLIS MANUFACTURING COMPANY OF NEW YORK:

GENTLEMEN—I hereby resign my membership in your body, such resignation to take immediate effect.

Yours very respectfully,

WILLIAM C. CARNEY.

123 Fifth Ave., New York,
June 15th, 1903.

.....

The effect of the above resignation would be the immediate severance of the official relations of the party signing same, so soon as the document were filed with the secretary of the company. No action of the board is required. This peremptory form of resignation is often employed in cases where a director wishes to escape responsibility for some threatened action of the board, or wishes to express his disapproval of some action taken by the board.

Form 49.—Resignation of Director. Future Date.

.....

To the Board of Directors
of the NEWTOWN OIL COMPANY:

GENTLEMEN—I hereby tender my resignation as a member of your body, my said resignation to take effect March 21st, 1903.

Very respectfully,

J. B. MINNINGTON.

Newark, New Jersey,
February 11, 1903.

.....

Such a resignation should be accepted by resolution of the board, though it is to be noted that its effective date cannot be in any way advanced by board action. It is intended to give the board ample time to provide a suitable successor.

It should be noted that the board cannot refuse to accept a positive resignation. If it is tentative, merely stating "I hereby tender, etc.," the board might nullify the intent of such resignation by refraining from or declining its acceptance. In such case, however, the party submitting the resignation could put in a positive and immediate resignation, and thereby at once terminate his connection with the board.

Resignations and other communications for the board of directors are frequently addressed to the secretary, or even to the president of the company. The better practice is to address such communications to the board, addressing the envelope in which they are enclosed to the secretary or the president of the company as such. It is then the duty of the officer receiving such communication to see that it gets before the board.

Form 50.—Resignation of President.

To the Board of Directors
of the ELDRIDGE TYPEWRITER COMPANY:

GENTLEMEN—I hereby resign my position as President of the Eldridge Typewriter Company and as a member of its Board of Directors.

Very respectfully,

VERNON M. MCDOWELL.

New York City,
July 1, 1903.

This resignation is peremptory and immediate, terminating without action of the board all official relations of the party signing same. A somewhat less peremptory form than the one given would be worded, "I hereby tender my resignation as, etc.—and request your immediate acceptance of same."

Where some difficulty has arisen between the directors and an official and, while not absolutely resigning, this latter wishes a "vote of confidence," or an expression of the feeling of the board towards him, the following form would be suitable:

Form 51.—Resignation of President. Conditional.

To the Board of Directors
of the WILLIS CONSTRUCTION CO.:

GENTLEMEN—I hereby tender my resignation as President and as a director of your Company, requesting your immediate action thereon.

Very respectfully,

JOHN G. GRISWOLD.

Wellsville, New Jersey,
July 16, 1903.

If the majority of the board wished to retain the president in his position, they would vote that the resignation be not accepted, or would vote against a motion for its acceptance. In either case the president's resignation would be of no effect, and the incident would be merely an indorsement of him and his position. If those opposed to the president were in the majority, however, and accepted the resignation, his official connection with the company would be at an end.

Form 52.—Resignation of Treasurer.

.....

New York, March 2, 1903.

To the Board of Directors
of the Nelson Carbide Company,
173 Duane St., New York:

Gentlemen—My permanent departure from the City on the 15th of this month compels me to resign my position as Treasurer of your Company. As I leave so shortly, I should much appreciate prompt action on my resignation, which is hereby tendered, and would also ask the early appointment of a committee—or the authorization of my successor—to audit my accounts and to take over and receipt for the moneys and other property of the Company now in my charge.

Regretting the unavoidable termination of my pleasant official relations with the Company, I remain,

Respectfully,

John Wells.

.....

In the larger corporations upon the resignation or retirement of the treasurer, an auditing committee is appointed, or an expert accountant or accountants employed to examine the treasurer's books and verify their statements. The treasurer's bondsmen are not released until this examination has been fully completed and a satisfactory report returned.

In the smaller corporations this examination is much less formal. Usually either a committee of the board is appointed to examine the accounts, or, more frequently, the newly elected treasurer is authorized to examine the books of his predecessor and to receive and receipt for any property of the company turned over by the retiring official.

CHAPTER XXVI.

NOTICES.

(For Notices of Meetings, See Chapter XXXIII.)

Form 53.—Notice of Stock Assessment.

ASSESSMENT NOTICE.

WILLITT MACHINE COMPANY.

Notice is hereby given that by duly authorized resolution of the Board of Directors, an assessment of Fifteen (15%) per cent. on the Capital Stock of the Company is called for, to be paid to the Treasurer of the Company on or before the 15th day of June, 1903.

JOHN R. WILLITT,
Secretary.

Newark, New Jersey,
May 15th, 1903.

Make checks payable to Treasurer.

This form is suitable for any state. It would be published in some local newspaper, or a copy be sent to every stockholder of record, or both methods would be followed, according to the requirements of the statutes of the state, of the by-laws, or of the special resolution under which the assessment was levied. Usually the times for assessments and the amounts and the authority by which they are to be levied, are set out in the subscription list which is signed by the subscribers to the stock. (See Forms 1–6.)

In New Jersey under the statute requirements not less than thirty days' notice of an assessment must be given; hence, if in the organization of a company, or in some later emergency, immediate payment of a stock assessment is desirable or necessary, it can only be secured by the formally expressed consent of all the stockholders. A simple form of waiver used in such cases is as follows:

Form 54.—Waiver of Assessment Notice. New Jersey.

WAIVER OF NOTICE OF ASSESSMENTS.

THE CANFIELD CHEMICAL COMPANY.

We, the undersigned, being all the subscribers to the Capital Stock of the Canfield Chemical Company, do hereby waive all requirements of the laws of the State of New Jersey as to notice of assessments upon the shares of stock of said Company subscribed for by us, and as to the time and place of payment of any such assessments, and do hereby agree to pay to the Treasurer of said Company all or any part of the amount to be paid upon our said subscriptions, in such amounts and at such times and places as may be prescribed by the Board of Directors of said Company.

JAMES L. CANFIELD.
EDWIN WALKER.
ELBERT J. KEEN.

Newark, New Jersey,
January 24, 1903.

This waiver is general in its terms giving the directors power to call any part of the amount due on stock subscriptions, or the whole of it, at any time at their discretion. The waiver might be made to apply to one particular assessment only, if desired. The form given is used in New Jersey more particularly, but would be applicable, with the necessary changes, in any other state if it were desirable to modify the terms of stock subscriptions as to time and amounts of payments. As worded above the waiver would have to be signed by all the subscribers before it became effective.

Form 55.—Notice of Dividend.

CHALMETTE CHEMICAL COMPANY.

At a meeting of the Board of Directors held this day there was declared from out the net earnings of the Company for the six months ending December 31, 1902, a semi-annual dividend of Four Per Cent., the same to be paid January 30, 1903, to the stockholders of record at the closing of the transfer books, January 20, 1903.

Stock transfer books will be closed at 3 P. M. January 20, 1903, and be reopened January 30, 1903, at 10 A. M.

JAMES L. PIERSON,
Treasurer.

New York, Jan. 13, 1903.

In a small corporation this dividend notice would be mailed to each stockholder. In a large corporation it would be mailed to each stockholder and would also usually be published in the local papers, the number of times of publication and the particular paper or papers being ordinarily designated by the board of directors.

Form 56.—Notice of Dividend. Preferred Stock.

AMERICAN WOOL OIL COMPANY.

BOSTON, Mass., June 24, 1903.

Notice is hereby given that a dividend of Three Per Cent. on the Preferred Capital Stock of the American Wool Oil Company will be paid on the 15th of July, 1903, to stockholders of record at the close of business July 3, 1903.

Transfer books for Preferred Stock will be closed at 3 P. M. July 3, 1903, and will be reopened at 10 A. M. July 16, 1903.

WILLIAM B. HENDRICKS,
Treasurer.

Form 57.—Notice of Election as Director.

ORMOND BRASS COMPANY,

20 Broad St., New York.

Mr. JOHN B. WYLIE, JUNE 22, 1903.
136 Madison Ave., City:

DEAR SIR—You are hereby notified that at the annual meeting of the Ormond Brass Company held June 22, 1903, you were duly elected a member of the Board of Directors of that Company. The next regular meeting of the Board will be held in the office of the Company June 29, 1903, at 3 P. M. Will you kindly be present and participate in that meeting.

Yours very respectfully,

JOHN M. GAINESBOROUGH,
Secretary.

Usually before the election of any one as director those interested assure themselves that he will serve if elected. In such case the notification of his election need not ask his acceptance of the position. Where, however, there is any uncertainty in the matter, the notification of election should request

the party elected to indicate his acceptance of the position. In event of refusal to accept a position after election thereto, the election is of no effect, as a man cannot be forced into an office against his will. In case of a director-elect's refusal to serve, either a meeting of the stockholders would have to be called to fill the position, or, if authorized to fill vacancies in the board by the by-laws, the board of directors would fill such vacancy at its next meeting.

Form 58.—Notice of Election as Director. Requesting Acceptance.

BLACK DIAMOND DRILL CO.,

23 State St., Boston, Mass.

Mr. HENRY S. GOULD, FEBRUARY 16, 1903.
Arlington Heights, Mass.:

DEAR SIR—At the last meeting of the Board of Directors of the Black Diamond Drill Company, held February 14, 1903, you were elected a member of the Board to fill the vacancy caused by the resignation of Mr. Henry Fielding. Will you kindly indicate your acceptance of the office at your early convenience.

The next regular meeting of the Board will be held in the office of the Company March 14, 1903, at 8 P. M.

Yours very respectfully,
SIMRELL B. IVES,
Secretary.

Form 59.—Notice of Election as General Manager.

THE WILLIS OIL WELL COMPANY,

256 Madison Avenue, New York.

Mr. JOHN H. GALT, MARCH 18, 1903.
758 Broadway, New York:

DEAR SIR—At a meeting of the Board of Directors of this Company held March 17, 1903, you were elected General Manager of the Company at a salary of eighteen hundred dollars per annum, payable in monthly instalments of one hundred and fifty dollars each, your employment and duties to begin on the first day of June, 1903, and the first instalment of your salary to be due and payable on the first day of the following month.

Will you kindly notify us without delay of your acceptance of the position and report for duty on the day above designated.

Yours very truly,
GERRITT B. SILVERTON,
Secretary.

CHAPTER XXVII.

EXCHANGE OF PROPERTY FOR STOCK.

At the present time a very large proportion of the corporations organized are so organized for the express purpose of taking over inventions, mines, businesses or property of other kinds. In such cases, the property taken over or purchased is usually paid for by the issue of the company's stock. The forms of proposal for such exchange of property for stock which follow are suggestive and may be readily modified to meet the varying conditions.

The first form of proposal (Form 60) is introduced and considered in the minutes of the first meeting of stockholders (Form 91) in Chapter XXXIV., and also in the minutes of the first meeting of directors (Form 94) of the same chapter. In the stockholders' minutes the proposition is referred to and appropriate resolutions authorizing and directing its acceptance by the directors, are adopted. In the directors' minutes, the proposition is embodied in full and is accepted by formal resolution of the directors.

This proposition involves the issue of the entire stock of the company in payment for the property offered. Usually it is desirable that the entire stock, in such cases, should be paid up in this way. Inasmuch, however, as a certain portion of the stock must have already been subscribed for by the incorporators of the company, some adjustment of these subscriptions must be made before the entire stock can be full paid in accordance with the terms of the proposition. The matter may be arranged in several ways.

A simple method, set forth in Form 60, is for the person making the proposition to secure in advance the consent of the incorporators to the payment by him of their subscriptions. This is entirely legitimate as, so far as the corporation is concerned, it is a matter of indifference, if subscriptions are duly and properly paid, whether they are paid by the subscribers themselves or by some one else for them. In event of such arrangement, the stock subscribed for by the incorporators would be issued to them direct, and the matter be adjusted between them and the party making the proposition in accordance with their private agreement.

Another method is for the incorporators to assign their subscriptions to the person making the proposition (See Form 61) so that in event of the acceptance of his proposition he takes over such subscriptions and receives the stock thereunder. The assignment is made conditional, however, so that it is of no effect unless the proposition is accepted, and then not until the transfer of the property to the corporation is actually made. If the assignment were absolute and immediate, the incorporators, having parted with their entire interests in the company, might be disqualified from acting in the first meetings. After the assignment became effective, any of the incorporators desiring to continue as stockholders or directors of the company would have to acquire one or more shares of its stock in order to be properly qualified.

It may be noted that the stock, under the propositions given, is to be issued to the order of the person making the proposition. Usually the stock is issued direct to such person and he thereafter distributes it as he sees fit, but there is no legal objection to the issue of such stock direct to the different parties to whom he may wish it to go. Payment to his order is as much payment as if made to him direct.

If, in any case, the incorporators prefer to retain and pay the subscriptions made by them, the proposition must be so modified as to only call for the unsubscribed stock. In such event, the proposition of Form 60 would call for but $45,000

face value of stock (450 shares) as $5,000 face value of the stock (50 shares) have already been subscribed for by the incorporators.

Form 60.—Proposal to Exchange Property for Stock.

.....

192 Clinton Ave., Brooklyn, N. Y., }
June 8, 1903. }

To the Stockholders and Directors of
The Marston Manufacturing Company,
Brooklyn, New York:

Gentlemen—I hereby offer you in exchange and full payment for the entire capital stock of the Marston Manufacturing Company, including the shares subscribed for by the incorporators (payment for which, by agreement with them, in event of your acceptance of my proposal, I assume), the plant for the manufacture of cooper's supplies and machinery, belonging to me and located on the water front near the foot of Huron Street, Greenpoint, Long Island; said plant consisting, in general, of one and one-half acres of ground, enclosed on the land side with an 8-foot brick wall; a three-story brick building thereon, 50′ x 100′, with one-story brick power and boiler house, 25′ x 50′, attached; also one-story frame warehouse, 50′ x 75′. Included with said plant are all the machinery, tools, apparatus and materials, raw or manufactured, now in said buildings or on the premises, the whole being sold as a going concern, and all of said plant and property being free and unincumbered and of the reasonable value of $50,000.

If the above proposition is accepted, the entire capital stock of your Company, excepting the shares already subscribed for, is to be issued to my order, full-paid and non-assessable, against the delivery to your representatives of such duly executed deeds and assignments of the above plant and property as may be satisfactory to your attorneys.

In the event of your acceptance of the foregoing proposition, I shall donate to your Company and turn over to your Treasurer, or some trustee for your Company to be named by you, not less than $20,000 face value of the stock received by me, such stock to be used for the purpose of providing working capital for the Company, at the discretion and under the direction of your Board of Directors.

Yours very truly,

Wilson M. Adair.

.....

(See Resolutions, Forms 44, 45.)

Form 61.—Proposal to Exchange Property for Stock. With Assignment of Subscriptions.

.....

New York City, January 26, 1903.

To the Hollins Manufacturing Company,
565 Broadway, New York:

Gentlemen—I hereby offer in exchange and full payment for the entire capital stock of your Company, including the shares subscribed for by the

incorporators thereof, their subscriptions having been conditionally assigned to me, the property described below, to wit:

United States Patent No. 659,435 for an improvement in braiding machinery, issued October 9, 1900, to Emil Strauss, and by him duly assigned to me; also United States Patent No. 670,433 for an improvement in sewing machines, issued December 21, 1900, to Harry B. Anderson, and by him duly assigned to me.

Upon the acceptance of this present proposition and the passage of a resolution of your Board of Directors authorizing the issue of said stock to my order, I will execute such transfers and assignments, in form approved by your counsel, as may be necessary to vest the title to said property in your Company.

Yours very truly,

HENRY B. OSGOOD.

We, the undersigned, being all the incorporators of the Hollins Manufacturing Company, in consideration of the sum of one dollar to each of us in hand paid, the receipt whereof is hereby acknowledged and for other good and valuable considerations, do hereby sell, assign and make over unto Henry B. Osgood all of our subscription rights in the said company, conditioned, however, upon the acceptance by said company of his proposition of this date to take the whole capital stock of said company, and to go into effect only upon the due tender by him of payment for such capital stock according to the terms of his said proposition.

Witness our hands and seals this 26th day of January, 1903.

In presence of
WILLARD HOLMES.

HERMANN WELLS. [L. S.]
WILLIS BOWEN. [L. S.]
CHAUNCEY ERLE. [L. S.]
ELLIS WELLS. [L. S.]

CHAPTER XXVIII.

MEETINGS.

The forms given in the present chapter are mainly used for the guidance or reference of officers in the conduct of meetings. The "Alphabetical List of Stockholders. New Jersey," (See Form 64) is to some extent an exception, as under the New Jersey statutes it must be prepared and kept on hand at the time of annual meetings open to the inspection of the stockholders. It is intended as well, however, for official reference and use, comes properly under the present classification and is therefore included.

Form 62.—Order of Business. Stockholders' Meetings.

ORDER OF BUSINESS.

1. Calling of Roll.
2. Proof of due Notice of Meeting.
3. Reading and disposal of any unapproved Minutes.
4. Annual Reports of Officers and Committees.
5. Election of Directors.
6. Unfinished Business.
7. New Business.
8. Adjournment.

This order of business is arranged for the stockholders' annual meeting. For special meetings, the unnecessary features, which are usually No. 4, "Annual Reports of Officers and Committees," and No. 5, "Election of Directors," must be omitted. The regular order of business should be included in the by-laws, and be followed as closely as possible. (See "By-Laws," Forms 21, 22, under Article II., "Stockholders.")

Form 63.—Order of Business. Directors' Meetings.

ORDER OF BUSINESS.

1. Reading and disposal of any unapproved Minutes.
2. Reports of Officers and Committees.
3. Unfinished Business.
4. New Business.
5. Adjournment.

This order of business applies to all meetings of the directors, should be incorporated in the by-laws and be closely followed. (See By-law Forms, 21 and 22, under Article III., "Directors.")

Form 64.—Alphabetical List of Stockholders. New Jersey.

ALPHABETICAL LIST OF STOCKHOLDERS
of the
MALVERN CUTLERY COMPANY
of
Newark, New Jersey.

NAME.	RESIDENCE.	SHARES OWNED.
Adams, John C.	284 Roseville Ave., Newark, N. J.	500
Barclay, Mathew H.	112 Bloomfield Ave., " "	150
Darknell, William	215 Orange Ave., " "	250
Fannell, Jasper T.	241 Waverly Ave., " "	100
Farmsworth, John R.	987 Broad St., " "	500
Gardner, Joseph	53 South 11th St., " "	100
Harris, Willis H.	186 Roseville Ave., " "	50

Under the statutes of New Jersey, the secretary is required to prepare, at least ten days before the election of directors, an alphabetical list of the stockholders of his company, giving the

residence and number of shares of stock owned by each. This list must be on file in the office of the company open to the inspection of the stockholders, and must be produced at the time and place of election for the inspection and information of the stockholders. The foregoing partial list gives the arrangement usually employed.

For his own use the secretary should provide an alphabetical list of the stockholders of record, with convenient rulings to note down the various important details, as follows:

Form 65.—Secretary's List of Stockholders.

.....

LIST OF STOCKHOLDERS
of the
TERRE BONNE CEMENT COMPANY.
January 24, 1903.

NAMES.	SHARES OWNED.	SHARES ABSENT.	PRESENT IN PERSON.	PRESENT BY PROXY.	NAME OF PROXY.
Adams, John T.....	50	..	50	..	
Allison, Jasper P	50	..	..	50	W. S. Gibbs.
Ames, Henry M.....	125	..	125	..	
Byrnes, Samuel B....	50	..	50	..	
Desmond, Henry	35	..	..	35	Walter James.
Erricson, Alfred N...	150	..	150	..	
Gough, James F. ...	250	..	..	250	James B. Allen.
Henderson, Francis E.	125	..	125	..	
Jasper, John C	80	..	80	..	
Jarvik, Sigismund....	25	25	..	..	
Lewis, Harkness B...	275	..	275	..	
Levine, Elbert S.....	125	..	125	..	
Percival, Ellis T.....	650	..	..	650	James B. Allen.
Pearry, Morris.....	110	..	110	..	
Rossmore, Albert M..	325	..	325	..	
Simpson, Oliver N...	75	75	..	..	
	2,500	100	1,415	985	

This list should not be confounded with the alphabetical list of stockholders required under the New Jersey laws. (Form

64.) It is merely a convenient form for the secretary's own use at meetings of stockholders, in calling the roll and in preserving in compact form a record of the results.

The list as shown, is after the results of the roll call have been noted upon it. Before roll call only the names given in the first column, and the number of shares owned, as shown in the second column, would appear upon it. These two columns are filled out before the meeting from the stock books of the company.

On calling the roll, if a stockholder were not represented at the meeting, the number of his shares would be noted in the third column, or a check mark in this third column might be used to denote absence of representation. If present in person, the number of shares owned would be entered in the fourth column. If absent, but represented by proxy, the number of shares owned would be entered in the fifth column and the name of the person holding the proxy in the sixth column.

In this manner a complete record of the stock is preserved. The combined footings of columns four and five give the number of shares entitled to vote at the meeting; and the combined footings of three, four and five, must, if the work be correct, give the total stock holdings and equal the footing of column two.

Form 66.—Outline Minutes for Annual Meeting.

.....

OUTLINE MINUTES.

ANNUAL MEETING TERRE BONNE CEMENT CO.

To be Held Jan. 24, 1903.

Meeting called to order at.....A. M. by.....
who presided over meeting. Officiating Secretary.....
Roll Call. (See Secretary's list of stockholders. Form 65.)
Notice of Meeting. Copy of notice submitted with Secretary's certificate attached. Ordered spread upon minutes.
Minutes of previous meeting read and.....

Annual Reports.
President's.
Treasurer's.
Committee on By-laws.
Election of Directors.
Inspectors of Election
.....and
.....

Inspectors were duly sworn and conducted the election, reporting the following results: (Results would be taken from Inspectors' Certificate. Form 68.)
New Business.
Adjournment.

.....

These outline minutes are best prepared on rough sheets of loose paper, with ample room between the items for the interpolation of any comments or other necessary matter. The proceedings of the annual meeting being mainly routine are well known to the secretary, and, except for a few details, such as the amount of stock present, exact time of assembling, etc., can be noted down in advance with considerable accuracy. If, through unexpected changes in the programme, any portion of the outline minutes cannot be used, the secretary has merely to draw his pencil through the part superseded and make note of the changes. Entirely new or unexpected business may be interpolated, or written on separate sheets of paper, and inserted in the proper place in the outline minutes. Later this rough but accurate record may be expanded into the permanent minutes.

By the use of outline minutes the main items to be recorded are provided for in advance and the secretary is relieved from a considerable amount of routine work. This gives him a better opportunity to secure an accurate record of results, and gives him time to attend to the many other duties which devolve upon the secretary in the course of a meeting. (See Chapter X; also § 143; also Form 98.)

CHAPTER XXIX.

INSPECTORS' OATHS AND CERTIFICATES.

In New York the statutes require the appointment or election of inspectors of election, whose duties are to take entire charge of and conduct the election of directors. For the first annual meeting of stockholders these inspectors are appointed by the board of directors. Thereafter they are elected or appointed as may be prescribed by the by-laws. These inspectors must be sworn to the faithful discharge of their duties, and are required to prepare a certificate showing the result of the election conducted by them. This oath and certificate must in New York be filed with the Clerk of the County in which the election is held.

The New York forms of oath and certificate for inspectors of elections are as follows:

Form 67.—Oath of Inspectors. New York.

OATH OF INSPECTORS.

STATE OF NEW YORK, } ss.:
County of Albany, }

We, the undersigned, duly appointed to act as inspectors of election at the Annual Meeting of the stockholders of the Terre Bonne Cement Company, to be held at the office of said Company, 138 State Street, Albany, New York, on the 24th day of January, 1903, being severally duly sworn, depose and say, and each for himself deposes and says, that he will faithfully execute the duties of inspector of election at such meeting with strict impartiality and according to the best of his ability.

HENRY M. AMES.
MORRIS PEARRY.

Severally sworn to before me this }
24th day of January, 1903. }

ELLISON HAYNES,
Notary Public for Albany County.

{ NOTARIAL SEAL. }

Form 68.—Inspectors' Certificate of Election. New York.

.....

CERTIFICATE OF INSPECTORS OF ELECTION.

We, the undersigned, the duly appointed inspectors of election of the Terre Bonne Cement Company of Albany, New York, do hereby certify that at the regular annual meeting of said corporation, held at the office of the Company, 138 State Street, Albany, New York, on the 24th day of January, 1903, a quorum being present, we, being first duly sworn by oath hereunto annexed, did conduct the election for directors of said corporation, and that the result of the vote taken thereat was the election, by the plurality vote set opposite their respective names, of the following directors, to serve for the ensuing year:

NAMES.	VOTES RECEIVED.
Ellis T. Percival	1,850
Albert M. Rossmore	1,850
Alfred N. Erricson	1,700
James F. Gough	1,600
Oliver N. Simpson	1,400

In Testimony Whereof, we have executed this certificate this 24th day of January, 1903.

HENRY M. AMES.
MORRIS PEARRY.

STATE OF NEW YORK, } ss.:
County of Albany, }

On this 24th day of January, 1903, before me personally came Henry M. Ames and Morris Pearry, to me known to be the persons described in and who executed the foregoing certificate, and severally acknowledged that they executed the same for the uses and purposes therein set forth.

ELLISON HAYNES,
Notary Public for Albany County.

{ NOTARIAL SEAL. }

.....

The inspector's oath and certificate are either arranged on one sheet of paper or on attached sheets and are filed together in the County Clerk's office.

For New Jersey, the inspector's oath and certificate are somewhat different. Neither are they filed in the County Clerk's office, but are merely handed the secretary when complete to be filed among the company archives. The following forms are in general use:

Form 69.—Oath of Inspectors. New Jersey.

OATH OF INSPECTORS.

STATE OF NEW JERSEY, } ss.:
County of Hudson, }

We, the undersigned, the duly appointed inspectors of election of the Aztec Mining Company, being severally sworn, upon our respective oaths do undertake and swear that we will faithfully, honestly and impartially perform our duties as inspectors at the election of directors of said Company to be held on the 8th day of January, 1903, and that we will make a true report of the results of said election.

THEODORE REINHART.
DANIEL CULLOM.

Subscribed and sworn to before me this 8th day of January, 1903.

HENRY OSMUND,
Notary Public for Hudson County.

{ NOTARIAL SEAL. }

Form 70.—Inspectors' Certificate of Election. New Jersey.

INSPECTORS' CERTIFICATE OF ELECTION.

We, the undersigned, inspectors of election duly appointed to conduct the election for directors of the Aztec Mining Company at the meeting of the stockholders thereof, held this day at the office of the Company, No. 15 Exchange Place, Jersey City, New Jersey, do hereby certify and report that we, being first duly sworn by oath hereunto annexed, did hold and conduct the said election by ballot in due form and that the votes cast thereat were as follows:

NAMES.	VOTES RECEIVED.
James H. Allen	400
Robert Dunham	400
Louis Glasser	265
Francis Lathrop	240
Morris Levine	160
Emmet Wells	140
Patrick Keenan	135
Samuel S. Steiner	135
Sidney Shepard	125

In Testimony Whereof, we have hereunto affixed our respective signatures this 8th day of January, 1903.

THEODORE REINHART.
DANIEL CULLOM.

For further details as to the appointment of inspectors and the practice where tellers are appointed, see Sections 54, 102 and 108. (See Forms 92, 93 and 98 for entries in minutes.)

CHAPTER XXX.

ANNUAL REPORTS.

The present chapter treats only of the reports made to the stockholders at their annual meeting. These reports vary so widely according to the conditions that any forms presented must be merely suggestive.

Annual reports to stockholders are nearly always general in their character, the more detailed reports being usually reserved for the directors and officers. At times, however, conditions will arise that make a detailed presentment to the stockholders necessary or advisable, or the stockholders may demand a full statement of any particular transactions that seem to require explanation and then full and explicit reports must be made. (See §§ 107, 125.)

The president's report (Form 71) is intended to give a general view of the company's condition and should present any matters of unusual importance that have occurred during the year. This report would usually be read by the president. The treasurer's report would be presented but would not usually be read unless such reading were called for. All reports as received, unless otherwise ordered by motion or by direction of the president, would be handed the secretary and be filed by him for preservation.

Form 71.—President's Annual Report.

.....

PRESIDENT'S ANNUAL REPORT.

To the Stockholders of the
TERRE BONNE CEMENT COMPANY:

GENTLEMEN—It gives me a great deal of pleasure to report that the general condition of this Company is much better now than it was one year ago. The early portion of the year was marked by a general depression in

the cement trade, the price of Terre Bonne barreled cement running down from $1.58 to $1.44. A very unfortunate strike just at this juncture prevented the filling of contracts even at this price, and later resulted in several damage suits for breach of contract. These were, however, compromised on terms quite advantageous to the Company, without extended litigation.

The strike itself was brought to a settlement by concessions on both sides, the men yielding all their demands except as to the hours of labor, the Company on that point agreeing to reduce the working day from ten hours to nine hours without reduction of wages.

Since that time the Company has enjoyed a period of uninterrupted prosperity. Terre Bonne Cement rose by June 1st to $1.60 per barrel, which price it has maintained. Since that time the Company, though working its plant to its fullest capacity, has been entirely unable to meet the demands, the total sales for 1902 running up to 68,500 barrels, as against 44,000 barrels in 1901. The average per centum of profit has been greater in 1902 than in 1901, the net receipts for 1902, after deduction of all fixed charges, repairs, maintenance, office expenses, etc., aggregating $38,286.12, as against $21,500 in 1901.

Out of these net receipts $15,500 has been set aside for additional equipment and from the remaining profits $8,286.12 has been passed to the reserve fund, leaving $15,000, amounting to 6% upon the total outstanding stock of the Company, available for dividends.

In conclusion, I would state that the Terre Bonne property generally is in good condition, new contracts for shipping have been unusually favorable to the Company, its relations with its customers are entirely satisfactory, and the outlook for the ensuing year is most promising.

Respectfully submitted,

ALBERT M. ROSSMORE,
President.

Albany, New York,
January 24, 1903.

.....

The treasurer's report usually consists of a statement of the profit and loss account for the preceding year, together with the resources and liabilities at the conclusion of such year. The treasurer would use his discretion as to how far his report goes into detail. Frequently business prudence forbids any detailed statement to the stockholders of the company.

Form 72.—Treasurer's Annual Report.

.....

TREASURER'S ANNUAL REPORT.

TERRE BONNE CEMENT COMPANY.

PROFIT AND LOSS STATEMENT.

January 1, 1903.

Gains.

68,500 bbls. Cement, $1.58.....	$108,230 00
Barreled Cement on hand in excess of stock of Jan. 1, 1902, 500 bbls., $1.0233.....	511 65

Receipts from Miscellaneous Sources	$250 25	
Material on hand in excess of stock of Jan. 1, 1902.	2,150 50	
		$111,142 40

Expenditures.

Materials	$30,421 39	
Labor	21,549 30	
Superintendence	1,700 00	
Salaries	4,391 00	
Office Expenses	1,414 24	
Supplies	1,386 18	
Repairs	6,149 95	
Taxes	642 19	
Insurance	1,020 08	
General Expenses	831 45	
Freight	1,100 00	
Settlement of Suits	2,250 50	
		72,856 28
		$38,286 12

STATEMENT OF ASSETS AND LIABILITIES.

Assets.

Plant, including Marl Beds and other Realty	$250,000 00	
Cash	30,436 35	
Office Fixtures and Supplies	1,500 00	
Accounts Receivable	18,125 00	
Cement, 1,500 bbls., $1.0233	1,534 95	
Clay, 10,830 yds., $0.7593	8,223 15	
Plaster, 101.85 tons, $5.60	570 35	
Coal, 452.75 tons, $2.20	996 05	
Coke, 399.75 tons, $4.15	1,658 50	
Insurance, unearned premiums	524 20	
		$313,568 55

Liabilities.

Accounts Payable	$8,750 00	
Capital Stock	250,000 00	
Reserve Fund	24,818 55	
Equipment Account	15,000 00	
Dividends Unpaid	15,000 00	
		$313,568 55

Respectfully submitted,

ELLISON HAYNES,
Treasurer.

Albany, New York,
January 24, 1903.

Form 73.—Report of Committee on By-laws.

.....

REPORT OF COMMITTEE ON BY-LAWS.

To the Stockholders of the
TERRE BONNE CEMENT COMPANY:

GENTLEMEN—Your committee appointed at the last annual meeting of the stockholders to report any needed amendments or changes in the by-laws of this Company beg to submit the following:

1. We would recommend the addition of a by-law providing for an Executive Committee to consist of three members of the Board of Directors; such Committee to have full control of the general business affairs of the Company in the interim between meetings of the Board.

2. We would recommend that the present by-law relating to the regular meetings of the Board of Directors be so changed as to provide for quarterly meetings of the Board instead of monthly meetings as at present.

3. We strongly disapprove of the suggested amendment to the by-laws whereby the amount of indebtedness which may be incurred by the Directors on behalf of the Company at any one time is increased from $10,000 to $25,000, as we believe such change to be not only unnecessary, but against the interests of the Company.

Respectfully submitted,

JAMES F. GOUGH,
HARKNESS B. LEWIS,
OLIVER N. SIMPSON,
Committee on By-laws.

Albany, New York,
January 24, 1903.

.....

CHAPTER XXXI.

CALLS AND WAIVERS.

Calls and waivers are used to assemble stockholders or directors, as the case may be, in special meeting. Such meetings are necessary only when some contingency or emergency arises calling for special or immediate action. In such case, the call and waiver, or the call with notice, or the waiver alone, as the circumstances may demand, must be used as the only legal means by which the special meeting may be assembled. Calls and waivers are never used to assemble regular meetings which meet in accordance with by-law or charter requirement and at the times and places designated therein.

In the first meetings of a company, calls and waivers play a very important part. After the granting of its charter and until its organization is perfected, the corporation is a legal entity, entitled to all corporate rights and privileges, but totally unprovided with the machinery through which these are ordinarily secured. At this stage the corporation has neither by-laws, directors nor officers. It is merely an unorganized group of stockholders possessed of certain charter rights as a basis upon which to build up an organization.

These first calls and waivers summon stockholders and directors for their initial meetings, and, *signed by all the parties concerned,* waive all statutory rights the parties would otherwise have to more formal notice of these meetings. Such meetings held in accordance with the terms of their calls and waivers, are strictly legal and give to stockholders and directors the opportunity to perfect the organization of the company.

The following form of call and waiver serves for any state, is short and simple and entirely sufficient for small companies, or for larger companies where no specially important action is contemplated. It must be signed by *all* the incorporators as, should one signature be missing, the entire action of the meeting called thereby might be invalidated.

Form 74.—First Meeting of Stockholders. Short.

.....

CALL AND WAIVER OF NOTICE

for

FIRST MEETING OF STOCKHOLDERS.

We, the undersigned, being all the incorporators and stockholders of the Sheldon Coffee Roasting Company, do hereby call the first meeting of the stockholders thereof, to be held in the office of Grenville C. Sheldon, 20 Broad Street, New York City, Jan. 15th, 1903, at 3 P. M., for the organization of the Company and the transaction of all such business as may be incident thereto, and we hereby waive all requirements as to notice of such meeting and consent to the transaction thereat of any and all business pertaining to the affairs of the Company.

New York,
Jan. 15, 1903.

ELLIS C. SHELDON.
WILLIAM C. GAINES.
HENRY WADSWORTH.

.....

Where important action is to be taken at the first stockholders' meeting, a more formal call and waiver should be employed, stating specifically the important matters to be considered. The following form for a corporation organized in New York complies with these conditions:

Form 75.—First Meeting of Stockholders. Full Form.

.....

CALL AND WAIVER OF NOTICE

for

FIRST MEETING OF STOCKHOLDERS.

We, the undersigned, being all the incorporators of the Marston Manufacturing Company and all the subscribers to its capital stock entitled to notice of said meeting, do hereby call the first meeting of the stockholders

of said corporation, to be held in the office of Morris P. Marston, 165 Grand Avenue, Brooklyn, New York, at 10 A. M. on the 10th day of June, 1903, for the purpose of receiving charter, adopting by-laws, considering and acting upon a proposal for the issue of the entire capital stock of the company in exchange for property, and the doing of all such other things as may be necessary or desirable in connection with the organization of said corporation, and we hereby waive all requirements as to notice or publication of the time, place and purposes of this first meeting, and consent to the transaction thereat of any and all business pertaining to the affairs of the Company.

New York City,
June 10, 1903.

MORRIS P. MARSTON.
HENRY CORNELL.
JOHN ADAMS.
WILLIAM B. AMES.

As the directors for the first year are, in New York corporations, appointed by the charter, the election of directors is omitted in the above form from the specifications of business to be transacted. Where the form is used in other states, this item should be supplied; the purpose clause then reading as follows:

> " for the purpose of receiving charter, adopting by-laws, electing directors, considering and acting upon a proposition, etc."

Form 76.—First Meeting of Directors.

CALL AND WAIVER OF NOTICE

for

FIRST MEETING OF DIRECTORS.

We, the undersigned, being all the directors of the Marston Manufacturing Company, do hereby call the first meeting of the Directors of said Company, to be held in the office of Morris P. Marston, 165 Grand Avenue, Brooklyn, N. Y., at 11 A. M., on the 10th day of June, 1903, for the purpose of electing officers of the Company, acting upon a proposition to exchange property for the stock of the Company and doing all such other things as may be necessary or desirable in connection with the organization of the Company or for the promotion of its business, and we hereby waive all statutory and by-law requirements as to notice of time, place and objects of this meeting and consent to the transaction thereat of any and all business pertaining to the affairs of the Company.

New York City,
June 10, 1903.

MORRIS P. MARSTON.
HENRY CORNELL.
JOHN ADAMS.

The New Jersey form of call and waiver for first meeting of directors would be similar to the above, which is a general form applicable to any state. It should be noted that in all calls and waivers, the signature of every party affected is required. If even one were omitted, the party omitted might successfully contest the validity of action taken at any such meeting.

Special Meetings.

Special meetings of stockholders may be assembled either by call and waiver, or by a call signed by the proper officials or persons and filed with the secretary, who thereupon sends out notices of the meeting to the stockholders.

Where all the parties in interest are readily accessible and are mutually desirous or willing that a special meeting shall be held, the call and waiver is used to advantage as a substitute for the call with its subsequent notice which must otherwise be employed. The call and waiver states the time, place and, in general, the purposes of the meeting, and in addition contains a waiver of the usual notice of such meeting. This call and waiver is signed by all the parties in interest, and permits of an immediate meeting. All the interested parties having waived their rights to the usual notice of time, place and purposes of meeting, no subsequent objection to any proper proceedings at such meeting could be made.

Examples of the call and waiver as used to assemble the first meetings of stockholders and directors have already been given. (Forms 74, 75, 76.) The call and waiver for a stockholders' meeting assembled to discuss and act upon a proposition to sell the entire assets of the company is as follows:

Form 77.—Special Meeting of Stockholders.

.....

THE CARONDELET SILK COMPANY.

CALL FOR SPECIAL MEETING OF STOCKHOLDERS.

We, the undersigned, being all of the stockholders of the Carondelet Silk Company of Paterson, N. J., hereby call a special meeting of the

stockholders of said Company to be held in the Company's office, No. 145 Main Street, Paterson, N. J., at 10 A. M. on the 20th day of August, 1903, for the purpose of considering and acting upon a proposition for the sale of the entire assets of the Company, and we hereby waive all statutory and by-law requirements as to notice of time, place and objects of said meeting, and agree to the transaction thereat of any and all business pertaining to the affairs of the Company.

Paterson, New Jersey,
Aug. 17, 1903.

SARGENT P. WYLIE.
JAMES P. HARMON.
JOHN B. GOODELL.
WILLIS S. BAKER.
HENRY BUCHANAN.
WILLIAM PERKINS.
SAMUEL T. ADAMS.
WELDON P. HUNT.
JOHN F. ALDRICH.
JOHN F. GOWEY.
JOHN T. HARKNESS.

Special meetings of the board of directors are also assembled by call and waiver where it is desirable to save the time involved in issuing formal notices to the membership. The form in such cases would be as follows:

Form 78.—Special Meeting of Directors.

THE NELSON CARBIDE COMPANY.

CALL FOR SPECIAL MEETING OF DIRECTORS.

We, the undersigned, being all the Directors of the Nelson Carbide Company of New York City, hereby call a special meeting of the Board of Directors of said Company to be held in the Company's office, 173 Duane Street, New York City, on March 10, 1903, at 3 P. M., to elect a Treasurer of the Company and to transact any other necessary business in connection therewith, and we hereby waive all statutory and by-law requirements as to notice of time, place and purposes of said meeting and consent to the transaction thereat of any and all business pertaining to the affairs of the Company.

New York City,
March 9, 1903.

JAMES B. WILSON.
HENRY ATTERBURY.
WILSON WILLIAMS.
BROWNELL J. BYRNES.
MORRIS HASSELL.

Consent Meetings.

The waiver alone is but seldom used and only where all the parties interested—as for example, all the members of a board of directors—find themselves together and then and there agree to waive all the usual formalities and hold an immediate meeting. Such meetings are sometimes called "consent meetings," are entirely legal, and are not uncommon in the case of a board of directors composed of but few members, or for meetings of a small executive committee. For the larger boards of directors and for stockholders' meetings it is seldom, if ever, used. For a "consent meeting," a written waiver signed by all the parties entitled to be present is not strictly necessary. The presence and participation of all of them, recorded in the minutes of the meeting, is sufficient legal evidence of their consent thereto, and estops any subsequent objection to the proceedings. Usually, however, in case of a consent meeting of the directors the secretary should prepare and have signed by all the members of the board a waiver or agreement to the meeting, which may be filed and is in itself conclusive proof of the legality of such meeting. Such waiver would be as follows:

Form 79.—Special Meeting of Directors. By Consent.

.....

THE NELSON CARBIDE COMPANY.

WAIVER FOR CONSENT MEETING.

We, the undersigned, being all of the Directors of the Nelson Carbide Company, and all being present, do hereby consent to an immediate meeting of the Board of Directors of said Company to be held in the office of Morris Hassell, No. 253 Broadway, New York, this 10th day of March, 1903, at 3 P. M., for the purpose of electing a Treasurer of the Company and for the transaction of any and all other business that may come before said meeting, and we hereby waive notice of such meeting and agree to the transaction thereat of any and all business pertaining to the affairs of the Company.

New York City,
March 10, 1903.

JAMES B. WILSON.
HENRY ATTERBURY.
WILSON WILLIAMS.
BROWNELL J. BYRNES.
MORRIS HASSELL.

.....

CHAPTER XXXII.

CALLS.

In the larger corporations the assembling of the stockholders in special meeting by means of the call and waiver is nearly always impracticable on account of the number of stockholders and the difficulty of getting all to sign. In such cases the meeting must be formally called as prescribed by the laws of the state or the by-laws of the particular company. The call, followed by notice of the meeting, is the usual method.

The call itself is merely an authorization or direction to the president or to the secretary to notify the stockholders of a special meeting which is to be held in accordance with the terms of the call. It must be signed by the parties designated thereto in the by-laws—usually the president or two or more directors, sometimes by a certain proportion in interest of the stockholders.

If the call is properly signed and is directed to the secretary, this latter official prepares notices of the meeting authorized thereby and sends them out to the stockholders, these notices being the direct means whereby the stockholders are assembled. If the call is directed to the president and is in due form, this official endorses the call and turns it over to the secretary for the latter to send out the formal notice of the meeting authorized by such call.

The form of call signed by the president is as follows:

Form 80.—President's Call for Special Meeting of Stockholders.

THE CARONDELET SILK COMPANY.

PATERSON, New Jersey, August 12, 1903.

Mr. JOHN T. HARKNESS,
Secretary of the CARONDELET SILK Co.,
145 Main St., Paterson, New Jersey:

DEAR SIR—In accordance with the authority vested in me by the by-laws of this Company, I hereby call a special meeting of its stockholders, to be held in the office of the Company, No. 145 Main St., Paterson, N. J., on the 20th day of August, 1903, at 10 A. M., for the purpose of considering and acting upon a proposition to sell the entire assets of the Company, and for the transaction of any and all business in connection therewith that may properly come before said meeting, and I hereby authorize and instruct you to send out notices of said meeting to the stockholders of this Company in accordance with the requirements of its by-laws.

Yours very truly,

JOHN F. GOWEY,
President.

The above call is formal and would be handed or sent by the president to the secretary of the company. This latter official would then send out notices of the meeting to the stockholders. (See Form 85.)

Both the call and notice must contain the three essentials of time, place and purpose, and the omission of any one would be fatal.

The form of call when signed by two or more directors would be as follows:

Form 81.—Directors' Call for Special Meeting of Stockholders.

CALL FOR SPECIAL MEETING OF STOCKHOLDERS.

We, the undersigned, Directors of the Carondelet Silk Company, do hereby call a special meeting of its stockholders to be held in the office of the Company, 145 Main Street, Paterson, New Jersey, on the 20th day of August, 1903, at 10 A. M., for the purpose of considering and acting upon

a proposition to sell the entire assets of the Company and for the transaction of any and all business necessary or desirable in connection therewith; and we hereby authorize and instruct the Secretary of the Company to send out notices of said special meeting in accordance with the by-law requirements of this Company.

Paterson, New Jersey,
August 12, 1903.

WELDON P. HUNT.
SAMUEL T. ADAMS.

To Mr. JOHN T. HARKNESS,
Secretary of the
CARONDELET SILK COMPANY.

.....

This call, as in the case of the president's call, would be handed to the secretary, to be followed by the secretary's notice of the meeting.

The form of resolution where a special meeting is called by formal action of the board of directors is given in Form 39. Upon the passage of such resolution, it would at once become the secretary's duty to send out notices of the meeting authorized thereby.

Frequently the by-laws provide that the president upon the formal written request of a specified proportion of the stockholding interests shall call a special meeting of the stockholders to consider such matters as are enumerated in the stockholders' request. The form of stockholders' request would be as follows:

Form 82.—Stockholders' Request for Special Meeting of Stockholders.

.....

STOCKHOLDERS' CALL.

To the President of the
CARONDELET SILK COMPANY:

We, the undersigned, owning or controlling not less than two-thirds of the entire voting stock of the Carondelet Silk Company, do hereby request you to call a special meeting of the stockholders of this Company to be held in the office of the Company, 145 Main Street, Paterson, New Jersey, at 10 A. M. on the 20th day of August, 1903, for the purpose of considering and acting upon a proposition to sell the entire assets of the Company and

for the transaction of all such other business in connection therewith as may be necessary or desirable.

Paterson, New Jersey,
August 12, 1903.

Willis S. Baker,	owning	150	shares.
James P. Harmon,	"	200	"
Sargent P. Wylie,	"	150	"
Samuel T. Adams,	"	100	"
John F. Aldrich,	"	250	"
Weldon P. Hunt,	"	200	"
John B. Goodell,	"	150	"
John T. Harkness,	"	100	"
William Perkins,	"	100	"

.....

In some corporations the stockholders' request, signed by a prescribed majority of the stockholders in interest, is the usual preliminary to the call for a special meeting. Usually, however, much simpler methods are prescribed in the by-laws whereby a special meeting may be called, and the stockholders' request is only resorted to where the president or directors are not inclined to assume the responsibility of assembling such meeting, or are, for some reason, opposed thereto.

Form 83.—President's Endorsement of Stockholders' Request.

.....

To the Secretary of the
Carondelet Silk Company:

In compliance with the foregoing request and for the purposes set forth therein, you are hereby instructed to send out notices, in accordance with the by-law requirements of the Company, for a special meeting of its stockholders to be held in the office of the Company at 10 A. M. on the 20th day of August, 1903.

Paterson, New Jersey,
August 12, 1903.

John F. Gowey,
President.

.....

The stockholders' request for meeting, endorsed with the president's instructions as above, would then be handed or sent to the secretary, who in compliance with its instructions would send out notices of the desired meeting. (See Form 85.)

Where the by-laws provide that a meeting may be called by a certain number of the stockholders, or by a certain proportion of the voting stock, without the intervention of the president, the call would be similar to Form 81, the phrase " Directors

of the, etc." being changed to "Stockholders of the, etc.," followed by the number of shares controlled. This would be handed direct to the secretary, and would be the secretary's authority for issuing his notices.

Directors' Meetings.

The call is frequently used in assembling the directors in special meeting, though the number of directors being small the call and waiver may be readily employed, (See Form 78) or the board may be assembled at any time without notice by consent of all its members. (See Form 79.)

The call for directors' special meetings must be signed as provided in the by-laws—usually by the president or a certain number of the directors.

The president's call for a special meeting of directors would be as follows:

Form 84.—President's Call for Special Meeting of Directors.

NELSON CARBIDE COMPANY,
173 Duane St., New York.

MARCH 2, 1903.

To the Secretary of the
NELSON CARBIDE COMPANY:

In accordance with the authority vested in me by the by-laws of this Company, I hereby call a special meeting of the Board of Directors to be held in the office of the Company at 3 P. M., upon the 10th day of March, 1903, for the purpose of acting upon the resignation of the Treasurer of the Company, Mr. John Wells, for the election of his successor and for the transaction of any other business in connection therewith that may be necessary; and you are hereby instructed to send out notices of said meeting as required by the by-laws of this Company.

HENRY ATTERBURY,
President.

This call would have to be issued at a much earlier date than would be the case with the call and waiver (See Form 78) in order to give the secretary proper time to get out his notices. The call would be handed to the secretary who would, in

accordance with its instructions, follow it up with due notice of the meeting. (See Form 89.)

A director's call for special meeting of the board would be similar in form to the directors' call for stockholders' special meeting (See Form 81) and would usually be handed to the secretary direct without passing through the hands of the president.

CHAPTER XXXIII.

NOTICES OF MEETINGS.

Notices of regular meetings are usually, and should always be, required by the by-laws. If not so required, the secretary is under no obligation to send them out.

Special meetings always require notice. Such notices are sent out pursuant to the call by which the meeting is authorized and such number of days before the meeting as required by the by-laws.

The following form for notice of special meeting of stockholders is general and may be used under almost any circumstances. The nature of the call under which it is issued should always be stated in the notice.

The notice given below may be used as shown, or with the name and address of the particular stockholder omitted. This latter practice is common where the notices are printed, the address appearing only on the envelope in which the notice is enclosed. Frequently the notice is printed on a postal card in which case the address appears only on the face of the card. The publication notice (See Form 86) may also be printed or written and used in this manner as a personal notice of meeting.

Form 85.—Notice of Meeting. Special Meeting of Stockholders.

.....

THE CARONDELET SILK COMPANY.

PATERSON, New Jersey, }
August 14, 1903. }

Mr. SARGENT P. WYLIE,
Montclair, New Jersey:

DEAR SIR—You are hereby notified that, pursuant to the call of the President, a special meeting of the stockholders of the Carondelet Silk

Company will be held in the Company's office, No. 145 Main Street, Paterson, New Jersey, August 20th, 1903, at 10 A. M., for the purpose of considering and acting upon a proposition to sell the entire assets of the Company, and for the transaction of any and all business necessary or desirable in connection therewith.

Yours very truly,

JOHN T. HARKNESS,
Secretary.

.....

Notices of special meetings must contain the three essentials of time, place and purpose, should specify by what authority they are issued, and should be sent to *every* stockholder of the company. The omission of any one stockholder, or a failure to send the notices the required number of days before the meeting, might nullify the entire proceedings of such meeting.

If the notice were to be published in the local papers, or a printed notice prepared to be sent out, as is sometimes done by the larger corporations, the form would be about as follows:

Form 86.—Publication Notice. Special Meeting of Stockholders.

.....

THE CARONDELET SILK COMPANY.

Notice is hereby given that a special meeting of the stockholders of the Carondelet Silk Company will be held in the Company's office, No. 145 Main St., Paterson, New Jersey, August 20th, 1903, at 10 A. M., for the purpose of considering and acting upon a proposition to sell the entire assets of the Company, and for the transaction of any and all business necessary or desirable in connection therewith.

By order of the President.

JOHN T. HARKNESS,
Secretary.

Paterson, New Jersey,
August 14, 1903.

.....

Annual meetings of stockholders are held at the time and place fixed by the by-laws and any and all business proper for consideration by the stockholders may, without mention in the notice, be transacted at such meetings.

Notice of the annual meeting must be sent out by the secretary a certain number of days before the meeting, the precise

number of days being determined by the by-laws. This notice, which is sent to every stockholder of record, would be as follows:

Form 87.—Notice. Annual Meeting of Stockholders.

.....

TERRE BONNE CEMENT COMPANY,

138 State Street, Albany, New York.

JANUARY 3, 1903.

Mr. JOHN T. ADAMS,
163 Capitol Street, Albany, N. Y.:

DEAR SIR—You are hereby notified that the Annual Meeting of the stockholders of the Terre Bonne Cement Company will be held in the Company's office at 10 A. M., Tuesday, January 24th, 1903, for the election of directors and the transaction of such other business as may come before the meeting.

Respectfully,

JAMES B. ALLEN,
Secretary.

.....

In New York State, the statutes require publication of the time and place of any election of directors, and, as directors are elected at the annual meeting of stockholders, it follows that the annual meeting should properly be announced by publication. There is, however, no direct penalty for failure to so announce the annual meeting; and the smaller corporations quite generally disregard the statute requirements, preferring the ordinary notice by mail as simpler, more effective and cheaper. Provided due notice of such annual meeting be given the stockholders in other ways, it is not probable that an election of directors held thereat could be successfully attacked for failure to observe the statutory requirements as to publication. (See § 52.)

In the larger corporations the statutory requirements are generally observed. The following form of notice is commonly used:

Form 88.—Publication Notice. Annual Meeting of Stockholders.

TERRE BONNE CEMENT COMPANY.

The Annual Meeting of the Stockholders of the Terre Bonne Cement Company will be held at the office of the Company, 138 State Street, Albany, New York, January 24th, 1903, at 10 A. M., for the purpose of electing directors and for the transaction of such other business as may be brought before said meeting.

The stock transfer books of the Company will be closed at 3 P. M. January 3d, 1903, and remain closed until 10 A. M. January 26th, 1903.

JAMES B. ALLEN,
Secretary.

This notice would be published in a newspaper issued in the county where such election is to be held at least once in each week for two successive weeks immediately preceding the election announced.

If the polls are to remain open for a certain specified time, as is frequently the case, the hours for the opening and closing should be given in the published notice.

Directors' Meetings.

The following is a general form for notifying the board of directors of a special meeting.

Form 89.—Notice. Special Meeting of Directors.

NELSON CARBIDE COMPANY,
173 Duane St., New York.

MARCH 5th, 1903.

Mr. JAMES B. WILSON,
178 West End Ave., City:

DEAR SIR—You are hereby notified that, pursuant to call of the President, a special meeting of the Board of Directors of this Company will be held in its office at 3 P. M., on the 10th day of March, 1903, for the purpose of acting upon the resignation of the Treasurer of the Company, Mr. John

Wells, for the election of his successor, and for the transaction of such other business in connection therewith as may be necessary or desirable.

Respectfully,

HENRY BRANDRETH CUMMINGS,
Secretary.

.....

This notice would be sent to every member of the board. If the call for meeting had been signed by two or more directors instead of the president, the general form of the notice would be the same except that the statement of the authority for the call would read "pursuant to call signed by two directors of the company."

Form 90.—Notice. Regular Meeting of Directors.

.....

WILLIS MACHINE COMPANY,

175 Broadway, New York.

AUGUST 7, 1903.

JOHN M. BARCLAY,
183 Nassau St., City:

DEAR SIR—You are hereby notified that the regular monthly meeting of the Board of Directors of the Willis Machine Company will be held in the Company's office, 175 Broadway, August 12th, 1903, at 10 A. M.

Respectfully,

HENRY M. GALE,
Secretary.

.....

This notice would be sent to every member of the board, according to the by-law requirements, usually from five to ten days prior to the meeting. The time and place must be as specified in the by-laws. Sometimes the by-laws fail to provide for any notice of regular meetings of directors, it being assumed that self-interest will cause the time to be remembered. In such case, it would be well for the secretary on his own responsibility to send out informal notices.

CHAPTER XXXIV.

MINUTES OF FIRST MEETINGS.

The first meetings of a new corporation are usually purely formal. The organization of the company is to be perfected and certain business is to be transacted and certain action taken, all of which is usually well understood and agreed upon among the incorporators in advance. To such an extent is this true that the minutes of the first meetings—both of stockholders and directors—are usually prepared before the time of meeting by the attorneys who have the incorporation in charge, and these minutes are followed to the letter.

At the first meeting of stockholders, which precedes the first meeting of directors, the charter is to be received, by-laws to be adopted, directors to be elected (except in New York); and, if any particularly important business is to come before the directors' meeting, the stockholders will pass a resolution specially authorizing the directors to act therein.

At the first meeting of directors, which usually immediately follows the meeting of stockholders, officers are to be elected and installed, all the various opening details of the business are to be provided for, and any other matter requiring immediate attention relating to the company and its business will be acted upon.

The procedure at these first meetings varies somewhat according to the requirements of the state in which the company is incorporated. Usually the first meetings of stockholders must be held within the state in which the company is

incorporated, though this is not true of some few states, as West Virginia and South Dakota.

Where all, or a majority of the incorporators reside outside the state of incorporation, the requirement that the first meeting of stockholders must be held within the home state is complied with by the use of proxies. Under such circumstances the entire stockholding interest will at times be represented by proxies in the hands of the company's attorney or agent, who, residing within the state of incorporation, or journeying there for the purpose, holds the meeting, transacts all needful business, prepares the proper minutes, and brings them, or sends them, to the secretary of the company. Such meetings, though purely formal and frequently entirely conducted by parties who are not stockholders at all, but merely holders of proxies from stockholders, are perfectly legal. Such meetings are, of course, only requisite in the case of "non-resident" corporations which are organized in one state to secure the benefit of its incorporation laws while the incorporators reside in other states and the corporations expect to do business elsewhere.

It should be noted that in New York the directors for the first year are named in and appointed by the charter, and that these directors have power to adopt by-laws, subject to any subsequent action of the stockholders and to do all things necessary to organize the company. This being true, the first meeting of stockholders in New York State is not of the same importance as elsewhere. If, however, specially important business is to come before the first meeting of directors, such as the issue of the company's entire stock for property, a preliminary stockholders' meeting, to approve and authorize such action, should always be held.

The following minutes of first meeting of stockholders are adapted to New York. With the addition of an election for directors, they would be suitable for most of the other states. In a few states special statutory requirements must be observed, such as the designation of state office and resident agent in New Jersey and Delaware.

Form 91.—Minutes of First Meeting of Stockholders.

.....

MINUTES OF FIRST MEETING OF STOCKHOLDERS

of the

MARSTON MANUFACTURING COMPANY.

Held June 10, 1903.

Pursuant to written call and waiver of notice, the first meeting of stockholders of the Marston Manufacturing Company was held in the office of Morris P. Marston, 165 Grand Avenue, Brooklyn, New York, at 10 A. M., on the 10th day of June, 1903, with all the stockholders present, either in person or by proxy.

Mr. Morris P. Marston was chosen Chairman and called the meeting to order. Mr. Henry Cornell was appointed Secretary of the meeting.

The following stockholders were present in person:

NAME.	SHARES SUBSCRIBED.
Morris P. Marston	25
Henry Cornell	10

The following stockholders were present by proxies duly presented and filed with the Secretary:

NAME.	NAME OF PROXY.	SHARES SUBSCRIBED.
John Adams	Willis Ellis	10
William B. Ames	Harvey Clinton	5

The Secretary presented the call and waiver of notice pursuant to which the meeting was held, duly signed by all the incorporators of the Company. Said call and waiver was ordered spread upon the minutes and is as follows:

(Insert here Call and Waiver of Notice, Form 75.)

The Chairman then presented a certified copy of the Certificate of Incorporation of the Company and stated that said certificate had been filed with the Secretary of State and recorded by him on the 5th day of June, 1903, and that a duplicate copy had been filed for record with the County Clerk on the 7th day of June, 1903.

Upon motion, duly made and carried, said Certificate of Incorporation was ordered received, the Directors named therein were recognized as the Directors of the Company, and the Secretary was instructed to spread the said Certificate in full upon the first pages of the Book of Minutes.

The Chairman also presented a form of by-laws, prepared by John B. Graham, Esq., Counsel for the Company, which was read, article by article, and, as a whole, unanimously adopted as the by-laws of the Company and ordered entered in the Minute Book immediately succeeding the Certificate of Incorporation.

The Secretary then presented a written proposal from Mr. Wilson M. Adair, of 192 Clinton Avenue, Brooklyn, offering to transfer and assign to the Company certain property, as set forth in said proposal, in

exchange for the entire capital stock of the Company, to be issued to his order, full-paid and non-assessable. (See Form 60.)

After due consideration, said proposal was ordered received and the following resolution in regard thereto was moved, seconded and passed by unanimous vote:

Whereas, A proposition has been received from Mr. Wilson M. Adair, offering to sell, assign and convey to this Company the property at Greenpoint, Long Island, known as the Adair Manufacturing Plant, all as set forth in said proposition, in exchange for the entire capital stock of the Company, to be issued full-paid and non-assessable to the order of the said Wilson M. Adair; and

Whereas, It appears to the stockholders of this Company that the said property is desirable for the purposes of the Company, and is reasonably worth the purchase price thereof;

Now Therefore Be It Resolved, That the said proposition for the exchange of said property for the entire capital stock of this Company, as set forth in said proposition, be and hereby is approved, and the Board of Directors of this Company are hereby authorized, empowered and instructed to accept the said proposition, and to cause the entire capital stock of the Company to be issued for the said property, in accordance with its terms.

There being no further business before the meeting, it was adjourned.

HENRY CORNELL,
Secretary.

MORRIS P. MARSTON,
Chairman.

.....

Mr. Adair's proposition might have been entered in full in the minutes of this first meeting of stockholders, and, if so, would have appeared just after the paragraph descriptive of the proposition and its presentation by the secretary. It would be prefaced by the following statement:

> "Said proposition was ordered received and spread upon the minutes and is as follows:" (See Form 60 for proposition.)

Inasmuch, however, as the proposition should properly appear in the minutes of the directors' meeting where it is formally acted upon, it is better omitted from the stockholders' minutes and should not be included unless there is some special reason for its appearance.

In any other state than New York, an election of directors would be an important feature of the minutes of the first stockholders' meeting. This election would be held immediately after the adoption of the by-laws and a usual form of entry would be as follows:

Form 92.—Entry in Minutes for Election of Directors.

.....

The President then announced, as next in order, the election of a Board of five Directors, to serve until the next Annual Meeting of Stockholders, and until the election and acceptance of their duly qualified successors. Messrs. John Hildebrand and William S. Sanderson were appointed tellers to conduct the election, which was by ballot, and which resulted in the election of the following gentlemen as Directors by the unanimous vote of all present:

Henry V. Ives, Wilson H. Dermott,
James H. Thompson, Servitt T. Heldrick,
Masterson B. Branch.

.....

This entry would be quite sufficient for the election of directors at a first meeting when, as is generally the case, the matter has been practically settled in advance and there is no conflict. Should there, however, be any contest, the entry should be made more in detail as follows:

Form 93.—Entry in Minutes for Election of Directors. Formal.

.....

The President then announced, as the next order of business, the election of a Board of Five Directors to serve until the Annual Meeting of Stockholders or until the election and acceptance of their duly qualified successors. The following names were duly placed in nomination: Henry V. Ives, Wilson H. Dermott, James H. Thompson, Servitt T. Heldrick, Masterson B. Branch, Warren N. Greene, Willis M. Thorne. The President appointed Messrs. John Hildebrand and William S. Sanderson as inspectors to conduct the election. Ballots were then prepared, and, after collecting and counting the same, the inspectors announced the following results:

Henry V. Ives	10	votes
Wilson H. Dermott	10	"
James H. Thompson	10	"
Servitt T. Heldrick	6	"
Masterson B. Branch	6	"
Warren N. Greene	4	"
Willis M. Thorne	4	"

The President thereupon declared Messrs. Ives, Dermott, Thompson, Heldrick and Branch the duly elected Directors of the Company.

.....

In New York (after the first election) and in New Jersey, inspectors of election are usually appointed by the president or elected by the stockholders, as may be provided by the by-laws.

(See § 54.) These inspectors are sworn to the proper discharge of their duties and are placed in entire charge of the election. At its conclusion they announce the result and sign and make affidavit to a formal statement thereof. (See Forms 67 to 70.)

Form 94.—Minutes of First Meeting of Directors.

.....

MINUTES OF THE FIRST MEETING OF DIRECTORS

of the

MARSTON MANUFACTURING COMPANY.

Held June 10, 1903.

Pursuant to written call and waiver of notice, the Board of Directors of the Marston Manufacturing Company held its first meeting in the office of Morris P. Marston, 165 Grand avenue, Brooklyn, at 11 A. M., on the 10th day of June, 1903.

Mr. Morris P. Marston was chosen as temporary Chairman and Mr. Henry Cornell was appointed temporary Secretary of the meeting.

All the members of the Board were present as follows:

Morris P. Marston,
Henry Cornell,
John Adams.

On request of the Chairman the Secretary presented the Call and Waiver of Notice, pusuant to which the meeting was held, duly signed by all the members of the Board. It was ordered spread upon the minutes and is as follows:

(Insert here Call and Waiver Notice, Form 76.)

The Chairman then appointed Messrs. Henry Cornell and John Adams tellers to conduct the election for officers of the Company, the officers so elected to serve for the remainder of the corporate year and until the election of their successors.

The votes of those present were then duly cast by ballot, resulting in the election by unanimous vote of the following officers:

President ..... Morris P. Marston.
Vice-President ..... John Adams.
Secretary and Treasurer..... Henry Cornell.

The permanent officers of the Company thereupon took charge of the meeting.

The Secretary presented a form of stock certificate for approval, which was by motion adopted as the form for the stock certificates of the Company as prepared by its Directors, and the Secretary was instructed to spread the said form upon the pages of the Minute Book immediately following the record of the meeting then in progress.

The President then presented a written proposal from Mr. Wilson M. Adair, of Brooklyn, offering to assign to the Company, in exchange for

its entire Capital Stock, certain specified property. The said proposal was ordered spread in full upon the minutes and is as follows:

(Insert here Proposal to Exchange Property for Stock, Form 60.)

The President also presented a resolution of the stockholders, approving the said proposal and authorizing and instructing the Directors to accept the same and to take such action in regard thereto as might be necessary to make such acceptance fully effective.

The following resolution was thereupon moved, seconded and unanimously adopted:

Whereas, The property offered in exchange for the Capital Stock of this Company by Mr. Wilson M. Adair in his proposition to the Company is adjudged by this Board to be of the reasonable value of Fifty Thousand Dollars ($50,000), and to be necessary for the use and lawful purposes of this Company;

Resolved, That the said property be and hereby is, in accordance with the authorization and instructions of the stockholders of this Company, accepted in full payment for the said Capital Stock of the Company, in accordance with the terms of said proposition; and the proper officers of this Company are hereby authorized and directed to receive the duly executed transfers and assignments of the property specified in said proposition and to issue in exchange therefor the entire stock of the Company, full-paid and non-assessable, to such person or persons as may be designated by the written orders of the aforementioned Wilson M. Adair, except as to the shares subscribed for by the incorporators, which shall be issued to them or their order.

Upon motion duly made, seconded and passed, the following resolution was adopted:

Resolved, That the Treasurer be and hereby is authorized and instructed to open an account for the Company with the Seaboard National Bank of New York City, and to deposit therein all funds of the Company coming into his custody; such account to be in the name of the Company and funds deposited therein to be withdrawn only by check, signed by the Treasurer and countersigned by the President.

The following motions were then made, seconded and duly passed by the unanimous vote of all present:

Moved, That the President be hereby authorized to lease for the use of the Company such suitable office or offices in this City as may be necessary for the proper transaction of the Company's business, such lease to be for one year, with privilege of renewal, at an annual rental not exceeding $900 and the office so secured to be the principal office of the Company within the State of New York.

Moved, That the Secretary be hereby instructed to procure a book of stock certificates in proper form, and a corporate seal, as provided for in the by-laws of this Company; also all such record, stock and transfer books, and books of account and stationery and office supplies, as may be necessary for the proper operation and record of the Company's business and transactions.

Moved, That the Secretary be instructed to prepare or have prepared, in due and proper form, a certificate of the payment of one-half the capital stock of the Company, and, after the due execution and verification thereof, to file said certificate as required by law, and to spread a copy thereof upon the pages of the minute book following the record of the present proceedings.

Moved, That the Treasurer be hereby authorized and instructed to pay from the Company funds the expenses properly incurred in the incorporation of the Company or in connection therewith.

Moved, That Messrs. James H. Melton and Henry R. Flower be hereby appointed inspectors of election to serve at the first annual elec-

tion of Directors of the Company, and at any elections of directors by the stockholders previous thereto.

There being no further business for consideration the meeting was adjourned.

HENRY CORNELL,
Secretary.

MORRIS P. MARSTON,
President.

.....

Following the preceding minutes on the pages of the minute book would appear the form of stock certificate adopted at the meeting; also copy of the certificate of payment of one-half the capital stock of the company. The call and waiver of notice might also have been ordered spread upon the minute book following the record of the proceedings. The proposal for exchange of property for the stock of the company might be entered in the same way after the record of the proceedings, but is used so directly as a basis for the subsequent proceedings that it is better incorporated in the minutes as shown.

If bond is required of the treasurer, and the by-laws do not specify the amount, sureties and other details, action thereon should be taken at this first meeting and would appear just after the record of the election of officers as follows:

> "By motion, duly seconded and passed, the amount of the Treasurer's bond was fixed at $1,000, such bond to be in form and with sureties approved by the Board.
>
> The Treasurer-elect then presented a bond for said amount signed by himself as principal and by James F. Melton and John W. Hartleigh as sureties. The form of the instrument and the sureties thereon meeting with the approval of the Board, the bond as presented was formally accepted and placed in custody of the President."

CHAPTER XXXV.

MINUTES OF SPECIAL MEETINGS.

The following minutes of special meeting of stockholders are written on the supposition that the meeting is held in pursuance of the call of the president (See Form 80.) followed by notice duly sent out by the secretary in accordance with its instructions (See Form 85); also that the by-laws provide that the regular officers of the company shall take charge of stockholders' meetings.

Form 95.—Minutes of Special Meeting of Stockholders. To Sell Property.

.....

MINUTES OF SPECIAL MEETING OF STOCKHOLDERS

of the

CARONDELET SILK COMPANY.

Held August 20, 1903.

Pursuant to formal Call and Notice, the stockholders of the Carondelet Silk Company assembled in special meeting in the office of the Company, 145 Main Street, Paterson, N. J., at 10 A. M., on the 20th day of August, 1903.

The meeting was called to order by President Gowey, Secretary Harkness officiating as recording officer.

The entire capital stock of the Company was represented at the meeting either in the person of the owner or by proxy.

The stock represented in the person of the owners was as follows:

Samuel T. Adams	100	shares.
Willis S. Baker	150	"
Herny Buchanan	100	"
John F. Gowey	500	"
John T. Harkness	100	"
James P. Harmon	200	"
William Perkins	100	"
Sargent P. Wylie	150	"

The following stockholders owning the number of shares of stock set opposite their respective names were represented by proxies duly presented and filed with the Secretary, all said proxies being made out in the name of John T. Harkness:

John F. Aldrich	250 shares.
John B. Goodell	150 "
Weldon P. Hunt	200 "

On request of the President, the Secretary presented the Call and Notice pursuant to which the meeting was held. These were ordered entered upon the minutes of the meeting and are as follows:

(Call, Form 80.) (Notice, Form 85.)

President Gowey then briefly stated the purpose of the meeting to be the consideration of a proposition for the purchase of the entire property of the Company, including patents, machinery, realty, stock on hand, book accounts, orders and all other assets of the Company, save cash in bank and bills and accounts receivable. That said proposition was received from the Cumberford Silk Manufacturing Co. of Paterson, the object of the purchase being the consolidation of the Cumberford and Carondelet businesses under one management. That, if the proposition were accepted, the Cumberford people would organize a Company with a capitalization of $750,000 to take over and operate the two properties, the price offered for the Carondelet property being $150,000 in cash and $150,000 in stock of the new Company.

In conclusion the President advised strongly the acceptance of the proposition, stating that on account of floods and strikes, from both of which the Company had suffered, the Carondelet Company would be unable to pay the accustomed dividend for 1903; that the future outlook was very uncertain, and that the prospects of a strong Company, such as the Cumberford people proposed to organize, were far better in every way than could possibly be the case with a smaller company; and that, for the reasons stated, as well as for others that could not be gone into at that time, he considered the acceptance of the proposition advisable and to the interests of the stockholders.

An extended discussion of the matter followed the President's statement, the opinion being expressed by several stockholders that the proposed consolidation was illegal, and numerous questions being asked President Gowey as to the financial features and other details involved in the proposition submitted.

Finally Mr. Buchanan moved that the meeting be adjourned until 10 A. M. of the following day, in order to give the stockholders time to look into the matter and confer among themselves. The motion was duly seconded and passed, and the President thereupon declared the meeting adjourned in accordance with said motion.

JOHN T. HARKNESS,
Secretary.

JOHN F. GOWEY,
President.

Form 96.—Minutes of Adjourned Meeting of Stockholders. To Sell Property.

MINUTES OF ADJOURNED MEETING OF STOCKHOLDERS

of the

CARONDELET SILK COMPANY.

Held August 21, 1903.

Pursuant to adjournment, the special meeting of the stockholders of the Carondelet Silk Company reassembled in the office of the Company at 10 A. M. on the 21st day of August, 1903.

The meeting was called to order by President Gowey, with Secretary Harkness officiating as recording officer.

The stockholders of the Company were all present in person save Messrs. John F. Aldrich, John B. Goodell and Weldon P. Hunt, who were represented by proxies in the hands of Secretary Harkness.

The minutes of the special meeting of stockholders held on the preceding day, and from which the present meeting was adjourned, were read for the information of those present.

After the reading of the minutes, Mr. Buchanan offered the following resolution:

Whereas, A certain proposition has been made by the Cumberford Silk Manufacturing Company of Paterson for the purchase of the entire property of this Company, save cash in bank and bills and accounts receivable, the consideration offered being $150,000 in cash and $150,000 face value of stock in a certain new corporation to be formed for the purpose of taking over the business and properties of the two Companies; and

Whereas, The stockholders of this Company are favorably impressed with said proposition, but believe that a full legal investigation of the whole matter should be made before proceeding further;

Now Therefore Be It Resolved, That the stockholders of this Company hereby instruct and authorize the Directors of the Company to employ such competent legal assistance as may be necessary to investigate and report upon said proposition in all its phases, and, if such investigation shall show that there are no legal objections to the contemplated sale, to accept the said proposition and to do all things necessary to carry such acceptance into effect.

The resolution as read was seconded by Mr. Adams, and after a short discussion, was carried by the unanimous vote of all present.

There being no further business before the meeting, the President declared it adjourned *sine die*.

JOHN T. HARKNESS,
Secretary.

JOHN F. GOWEY,
President.

No notice of an adjourned meeting is required unless specially ordered. If, however, the adjournment is for a num-

ber of days or until a date somewhat removed, it would be entirely proper and advisable for the secretary to send out a notice of such adjourned meeting a few days before its assembling.

Special Meetings of Directors.

Special meetings of the board of directors of a company may be assembled by call and waiver (Form 78) or by call (Form 84), the call being followed by the secretary's notice of such meeting. Also by consent of all the directors a special meeting of the board may be held at any time and place and without notice. This last method is a variation of the call and waiver and a meeting held in this way is called a "Consent Meeting," because the consent of all the members is requisite. (See Form 79.)

The following minutes are written on the assumption that the meeting was assembled by call and waiver. (Form 78.)

Form 97.—Minutes of Directors' Special Meeting.

.....

MINUTES OF SPECIAL MEETING OF DIRECTORS

of the

NELSON CARBIDE COMPANY.

Held March 10, 1903.

The Board of Directors assembled, pursuant to Call and Waiver of Notice, in special meeting in the office of the Company, No. 173 Duane St., New York City, at 3 P. M. March 10, 1903.

The meeting was called to order by President Atterbury, with Henry Brandeth Cummings acting as Secretary.

All the members of the Board were present and participated in the meeting.

The Secretary presented the Call and Waiver, duly signed by all the members of the Board, pursuant to which the meeting was held. There being no objection thereto, the President ordered that the Call and Waiver be spread upon the minutes.

(Form 78.)

The President then stated that Mr. John Wells, Treasurer of the Company for nearly four years past, had somewhat unexpectedly determined to

leave the city, and as this absence would be permanent, had handed in his resignation.

Upon request of the President the Secretary read Mr. Wells' resignation, which is as follows:

(Form 52.)

On motion of Mr. Wilson, seconded by Mr. Williams and carried by unanimous vote of the Board, Mr. Wells' resignation as Treasurer was accepted and the thanks of the Board were tendered him for the faithful and efficient manner in which he had discharged the duties of his office.

After an informal discussion, Mr. Byrnes nominated Mr. Henry Bruce, Assistant Treasurer of the Company, for the position of Treasurer. The nomination was seconded by Mr. Williams, and there being no other nominations for the office, Mr. Bruce was, by unanimous vote of the Board, elected Treasurer.

On motion duly seconded and passed, Messrs. Atterbury and Bruce were authorized to make such audit of the former Treasurer's accounts as seemed to them expedient, and to receive and receipt for the moneys and property turned over to his successor.

There being no further business before the meeting, it was, upon motion, adjourned *sine die*.

HENRY BRANDETH CUMMINGS,
Secretary.

HENRY ATTERBURY,
President.

.....

CHAPTER XXXVI.

MINUTES OF REGULAR MEETINGS.

Form 98.—Annual Meeting of Stockholders.

.....

MINUTES OF ANNUAL MEETING

of the

TERRE BONNE CEMENT COMPANY.

Held January 24, 1903.

The stockholders of the Terre Bonne Cement Company met in annual meeting in the office of the Company at 10 A. M., January 24, 1903.

The meeting was called to order by President Rossmore, who presided. Secretary Allen acted as Secretary of the meeting.

The call of roll showed that out of a total of 2,500 shares of stock outstanding, 2,400 were present or represented by proxies, the same constituting a legal quorum. (See Secretary's List, Form 65.)

The Secretary submitted a copy of the notice of meeting with his certificate attached showing that copies thereof had been mailed to each stockholder of record on or before the 14th day of January, 1903; also copies of the Albany Argus, dated, respectively, January 11th and January 18th, 1903, containing due advertisement of the meeting. (See Form 88.)

No objection being offered thereto, the proof of notice as presented was ordered received and filed. (For Notice, see Form 87. For Certifications, see Forms 124–126.)

The minutes of the preceding annual meeting were then read and approved. The minutes of the special meeting of stockholders held September 24th, 1902, were also read and approved.

The annual report of President Rossmore was then presented, and, upon request, was read by him. The report was, on motion, ordered received and filed. (See Form 71.)

The Treasurer's annual report was submitted and read, and, no objection being offered, was ordered received and filed. (See Form 72.)

The report of the Committee on By-laws followed, which was also read and, on motion, was ordered received and filed. (See Form 73.)

The election of directors for the ensuing year being next in order, the President appointed Henry M. Ames and Morris Pearry Inspectors of Election.

Nominations being then called for, the following gentlemen were placed in nomination:

Ellis T. Percival, Albert M. Rossmore, Alfred N. Erricson, James F. Gough, Oliver N. Simpson, E. Francis Henderson and Harkness B. Lewis.

The Inspectors of Election were then duly sworn (see Form 67) and took charge of and conducted the election. The election was by ballot, and at its conclusion the Inspectors made their formal report, announcing and certifying to the election of the following gentlemen as Directors of the Company for the ensuing year:

Ellis T. Percival,
Albert M. Rossmore,
Alfred N. Erricson,
James F. Gough,
Oliver N. Simpson.

The President instructed the Secretary to preserve a copy of the Inspectors' Report among the records of the Company. (See Form 68.)

The recommendations contained in the report of the Committee on By-laws were then taken up and discussed at considerable length. A number of motions were made in reference thereto, but were uniformly lost, until it became apparent that agreement on the matter was impossible, when, on motion of Mr. Pearry, duly seconded and carried, the meeting was adjourned.

JAMES B. ALLEN,
Secretary.

ALBERT M. ROSSMORE,
President.

.....

Form 99.—Regular Meeting of Directors.

.....

MINUTES OF REGULAR MEETING OF DIRECTORS

of the

WILLIS MACHINE COMPANY.

Held August 12, 1903.

The Board of Directors of the Willis Machine Company met in regular meeting in the office of the Company, No. 175 Broadway, New York City, August 12th, 1903, at 10 A. M.

President Johnson presided over the meeting and Secretary Gale acted as recording officer.

Present, Messrs. Johnson, Gates, Hamilton, Nevins and Herrick; absent, Messrs. Germaine and Gray.

The minutes of the previous meeting were read and, after correction by the insertion of Mr. Nevins' name among those present at that meeting, were ordered approved.

The Treasurer then reported that the Company's sight draft on the Wells-Gibson Manufacturing Company for $850, amount due on boiler and engine furnished, had been returned unpaid without explanation, the draft being merely endorsed "Payment Refused." That he had written the Wells-Gibson Manufacturing Company several times without response, and from outside information he understood that they were financially embarrassed.

After some discussion, the matter was, by motion, referred to the Company's attorney to bring suit or take such action as might be necessary.

The President made a short verbal report on the condition of the business, recommending the establishment of an agency in Chicago for the sale of its products.

After discussion, the President was, by motion duly made and carried, directed to investigate the matter further and to report at the next regular meeting of the Board as to the cost of establishing such agency and the possibility of securing a suitable representative to take charge thereof.

There being no further business the meeting was adjourned.

HENRY M. GALE,
Secretary.

WALLACE B. JOHNSON,
President.

.....

CHAPTER XXXVII.

CORPORATE AND OFFICIAL SIGNATURES.

The signature of a corporation official followed by the name of his office, is usually referred to as an *official signature.*

The name of a corporation duly affixed and evidenced by the signature of the affixing officer is known as a *corporate signature.*

The president and treasurer, or secretary, are frequently called upon to join in the corporate signature. Their official signatures are in constant use in the ordinary course of corporate business.

Speaking generally, the corporate signature is affixed to all important instruments where, by authority of the board of directors, the corporation itself is to be directly and legally obligated, while the official signatures of the officers are employed by them in matters pertaining particularly to their respective departments, in which the binding of the corporation does not enter in, or where, if the corporation is to be bound, the authority of the officer signing is sufficient to sustain his action.

For example, the president will sign reports, certain letters, instructions, etc., with his official signature. The treasurer will sign notices of dividends or assessments, financial statements, and even checks and receipts in the same manner, while the secretary affixes his official signature to the minutes of meetings, to reports, notices and to many letters.

In regard to letter signatures it should be noted that practice varies widely. In perhaps the majority of corporations the corporate signature is attached to every letter pertaining to the

business of the company, unless there is some special reason for a different signature. In many corporations, however, this practice is exactly reversed, the official signature of the writer being always employed unless there is some special reason for the corporate signature. The former is the preferable plan.

Form 100.—Official Signature.

.....

HENRY M. STANTON,
President.

.....

This is the simplest form of official signature. It is sufficient if the letter, notice, report or other document to which it is appended, shows plainly and unmistakably, by its heading or subject matter, of what company the person signing is an official. If this is not the case the official title following the name must be written out in full as in the following form:

Form 101.—Official Signature. Complete.

.....

HENRY M. STANTON,
President American Machine Works.

.....

Where the corporation is to be bound, official signatures should not be used, as unexpected complications and liabilities may result. For instance, should the president of a company sign a note with his official signature, instead of with the corporate signature, he might become involved thereby in a personal liability as the maker or endorser of the note. (See Chapter XXXVIII.)

To facilitate the use of the corporate signature, and as a matter of convenience, every officer of a corporation should be provided with a suitable rubber stamp bearing the corporate name and so arranged that the insertion of the official's name will give the corporate signature in full. The form of such stamp would be as follows:

Form 102.—Stamp for Corporate Signature.

.....

THE RANSOME WHEEL COMPANY,
By.....
President.

.....

The word "By" as given in the preceding form, is omitted from the corporate signature by many corporations. As its use is, however, approved by the leading authorities on corporation law, and its omission may under some circumstances involve a personal liability for the officer whose name is affixed, and as the word is employed by perhaps the majority of the best conducted corporations of the country, the form given is regarded as preferable.

The president's name signed in the blank left for it in the above form, gives the simplest form of corporate signature, such as is affixed to letters and other documents requiring but little formality. For important instruments, often, though not necessarily, two or more official signatures follow the corporate name, and the seal is affixed, as shown in the next form.

Form 103.—Corporate Signature. Formal.

.....

{ CORPORATE SEAL. }

THE RANSOME WHEEL COMPANY,
By JOHN M. WELLS,
President.
HENRY T. WILKINS,
Secretary.

.....

The corporate signature may be legally affixed by any corporate officer or agent, authorized thereto by the directors or by-laws, though in all current business where but one signing officer is desired, the president is usually designated.

Where, as in the preceding form, the secretary's name appears in the corporate signature, no specific attestation of the seal is necessary, the secretary's participation in the signature having the practical effect of an attestation of the seal. Where, however, the secretary does not join in the corporate signature—as in the following form—the seal should be formally attested.

Form 104.—Corporate Signature. Seal Attested.

{ CORPORATE SEAL. }

THE RANSOME WHEEL COMPANY,
By JOHN M. WELLS,
President.

ATTEST SEAL:
HENRY T. WILKINS,
Secretary.

Where the corporate signature is affixed to any formal instrument, it is customarily preceded by a testimonium clause as shown in the following forms:

Form 105.—Testimonium Clause. Corporate Signature.

In Witness Whereof, the said Staunton Falls Power Company has caused its corporate name to be hereunto subscribed by its President, and its duly attested corporate seal to be hereunto affixed by its Secretary, all in the City of Staunton Falls, Massachusetts, on this 23d day of April, 1903.

{ CORPORATE SEAL. }

STAUNTON FALLS POWER COMPANY,
By WILSON M. BROWN,
President.

ATTEST SEAL:
HARVEY B. SMALL,
Secretary.

Form 106.—Testimonium Clause. Two Corporate Signatures.

In Witness Whereof, the parties to this agreement have caused their respective legal corporate signatures and seals to be hereunto affixed, all being done in the City, County and State of New York, on the day and year first above written.

THE AJAX AXE COMPANY,
By JAMES BRIERSON,
President.

{ CORPORATE SEAL. }

HENRY M. GERVAIS,
Secretary.

{ CORPORATE SEAL. }

ELLENVILLE FORGE COMPANY,
By JOHN BRONSON,
President.

ATTEST SEAL:
JAMES B. SHELDON,
Secretary.

Form 107.—Testimonium Clause. Corporate and Individual Signatures.

In Witness Whereof, the said Staunton Falls Power Company, party of the first part, has caused its corporate seal to be affixed to this indenture and its corporate signature to be subscribed thereunto by its President and Secretary, and the said party of the second part has affixed her signature and seal hereunto, all being done in the City of Staunton Falls, Massachusetts, on the day and year first above written.

STAUNTON FALLS POWER COMPANY,
By WILSON M. BROWN,
President.
HARVEY B. SMALL,
Secretary.

{ CORPORATE SEAL. }

JANET B. STILLSON. [L. S.]

Form 108.—Testimonium Clause. By Agent.

In Witness Whereof, the said Hilton Wool Cleaning Company, party of the first part, acting through its legally appointed agent, Morton B. Hubbard, thereunto duly authorized by resolution of its Board of Directors (certified copy of which resolution under the corporate seal is annexed), has hereunto affixed its corporate signature, and Samuel James, party of the second part, has hereunto signed his name and affixed his seal, all on the day and year first above written.

HILTON WOOL CLEANING COMPANY,
By MORTON B. HUBBARD,
Agent.

SAMUEL JAMES. [L. S.]

A copy of the resolution authorizing the agent to execute the above instrument on behalf of the company, duly certified under the corporate seal, should be attached thereunto, thus making the evidence of its proper execution complete.

Receipts and Drafts.

In corporate receipts and drafts, and even at times in notes, we find the same variations as to signature. Receipts, drafts and vouchers are signed by the treasurer with his official signature, the corporate name being conspicuous only by its absence. The practice is so common that it can hardly be condemned, but where such signature is employed, the body of the receipt,

draft or voucher should display the name of the company with such prominence and in such manner as to show plainly that the transaction is for the company account, as in the following receipt:

Form 109.—Corporate Receipt. Official Signature.

THE SIMRELL SPICE COMPANY,
53 West St., New York.

$175.00 AUGUST 31, 1903.

Received from the J. H. Stimson Company, One Hundred Seventy-five Dollars, payment in full for consignment of July 15th, 1903.

JESSE B. ERHARDT,
Treasurer.

The name of the company is frequently printed across the face of the receipt at the left, instead of as given above.

The better form of signature to a corporate receipt would be as follows:

Form 110.—Corporate Receipt. Formal Signature.

The Hotel Supply Co.,
125 W. 23d St.,
New York.

$125.00 NEW YORK, August 1, 1903.

Received of the Ocean Hotel Company, One Hundred Twenty-five Dollars, in full of account.

THE HOTEL SUPPLY COMPANY,
By JOSEPH H. WILSON,
Treasurer,

Where a payment is evidenced by a receipt written on the bill or statement itself, the same variation as to signature is found. The better form is the regular corporate signature. Where, as is usually the case, the signature, with the exception of the name of the affixing officer, is impressed by means of a rubber stamp, the corporate signature requires no more writing than does the official signature, and the legal status of the instrument so signed is unquestionably better.

CHAPTER XXXVIII.

COMMERCIAL PAPER.

Corporate Notes.

A corporate note does not require to be sealed. It may be signed by any officer or officers properly authorized thereto. For notes given in the regular routine of business, this authority would usually be conferred upon the proper officials by the by-laws or by custom. For large amounts, or for special transactions outside the usual routine, this authorization would be given by resolution or motion of the board of directors. The recipient of a corporate note must—if the matter be outside of the regular transactions of the corporation—assure himself that the signing officer is duly authorized. If he were not so authorized, the note might not bind the corporation.

The signature to a corporate note must be the corporate signature. Any other signature may invalidate the note as against the corporation, and may involve the official signing such note in a personal liability as the maker or endorser of the note.

Form 111.—Corporate Note. Signature by President.

.....

$1,000.00 NEW YORK, January 15, 1903.

Sixty days after date the Armour Land Company promises to pay to the order of William B. Emerson the sum of One Thousand Dollars. Value Received.

ARMOUR LAND COMPANY,
By JOHN LAMONT,
President.

.....

Form 112.—Corporate Note. Signature by Treasurer.

$1,500.00 NEWARK, NEW JERSEY, July 1, 1903

Three months after date the Allen Manufacturing Company promises to pay to the order of William H. Strauss the sum of Fifteen Hundred Dollars, with interest from date until paid, at the rate of 5 per cent. per annum.

Value Received.

THE ALLEN MANUFACTURING COMPANY,
By JAMES H. WELLS,
Treasurer.

Payable at the
SEABOARD NATIONAL BANK
of New York City.

Form 113.—Corporate Note. Collateral Security.

$15,000.00 NEW YORK, March 5, 1903.

Six months after date the Berwick Mercantile Company promises to pay to the order of Willis P. Morton, at the Third National Bank of this City, the sum of Fifteen Thousand Dollars, in gold coin of the United States of the present weight and fineness, with interest from date until paid at the rate of five per cent. per annum, payable in like coin.

And the said Berwick Mercantile Company doth herewith deposit with the said Willis P. Morton, as collateral security for the due payment of the foregoing promissory note, Five Hundred Shares of its stock in five certificates, each for One Hundred Shares and numbered respectively 55, 56, 57, 58 and 59, said certificates standing in the name of Mark Baldwin, Treasurer of the said Berwick Mercantile Company, and endorsed by him in blank upon the back of each certificate.

And in the event that this note, or the interest thereon, shall not be paid when due, the said Berwick Mercantile Company hereby appoints and constitutes the said Willis P. Morton its attorney in fact and irrevocable, with power of substitution, to sell at any time after this said note or any interest thereon is due and unpaid, with or without notice, and either at public or private sale, the whole or any part of said securities, the proceeds thereof to be applied to the payment of the said promissory note, any interest due thereon, and any commissions properly payable on the sales of said securities so sold, and any surplus remaining thereafter, either of cash or of the said securities, to belong to and be subject to the order of the said Berwick Mercantile Company.

In Testimony Whereof, the corporate signature of the said Berwick Mercantile Company is hereunto affixed by its President and Treasurer, duly authorized thereto by a resolution of the Board of Directors of said Company, passed at a regular meeting of said Board, held February 23, 1903, duly certified copy whereof is hereunto attached.

BERWICK MERCANTILE COMPANY,
By HENRY S. CORBIN,
President.
AMOS C. HALLOCK,
Treasurer.

For form of certified resolution to be attached to above note, see Form 128.

There is no peculiar form for corporate drafts. The usual form with corporate signature is as follows:

Form 114.—Corporate Draft. Formal Signature.

The Wells Construction Co.,
11 Broadway, New York.

$2,500.00 NEW YORK, August 3, 1903.

At sight pay to the order of the Elton Wool Spinning Company the sum of Two Thousand Five Hundred Dollars, and charge to our account.

THE WELLS CONSTRUCTION COMPANY,
By WILBUR S. HASTINGS,
Treasurer.

To SIMPSON & ELLIS,
156 Chestnut St.,
Philadelphia, Pa.

Corporate Checks.

Funds belonging to a corporation should always be deposited in the name of the company, and checks against such funds should be signed in such manner as may be prescribed in the by-laws. To allow the treasurer—as is frequently done in the smaller corporations—to deposit the company funds in his own name as treasurer and to draw on them by check, signed merely with his official signature, is to invite irregularity.

The signature, or signatures, to a corporate check are not of the same importance as in the case of other corporate instruments. There is no question of liability as in the case of a wrong form of signature to a note or contract. The signatures to a check are merely for the purpose of identification, and any method of signature prescribed in the by-laws and recognized by the company's bank is sufficient. Even here, however, there seems no good reason why the formal signature of the corporation should not be employed.

The name of a corporation issuing a check is, as a rule, plainly printed or engraved upon the face of such check. Usually this name is placed across the left hand end.

The corporate seal is seldom if ever used on checks, though its use would not affect the check in any way.

Where the by-laws provide that checks shall be signed by the president and treasurer with the corporate signature, the word "By" is rarely used before the official signatures. The following is a convenient and much used form:

Form 115.—Check. Corporate Signature.

The Williston Spice Co.

No. 335. NEW YORK, February 20, 1903.

SEABOARD NATIONAL BANK,
18 Broadway.

Pay to the order of Thomas W. Holmes, $500.00
Five Hundred.....Dollars.

THE WILLISTON SPICE COMPANY,
JOHN S. MERRILL, President.
HENRY S. BROWN, Treasurer.

It may be noted that where the signatures permit, the figures showing the amount of a check are very frequently placed in the lower left-hand corner instead of to the right as here shown. Also, the check number is frequently placed in the upper right-hand corner. Such arrangement, with the other details as shown in the form just given, is highly approved by bank officials, as it brings all the essential features of the check—number, date, amount, payee and signature—all on the right-hand side of the check in the most convenient position for rapid reference. This general arrangement is observed in Form 118.

If the by-laws authorized the treasurer alone to sign the corporate name to checks, the form would be the same as the above with the omission of the president's name.

Where the by-laws require the corporate name to be affixed

by the treasurer and the check is to be countersigned by the president, the following form is approved:

Form 116.—Check. Corporate Signature. Countersigned.

Montauk Ice Company,
237 Broadway, New York.

No. 245. NEW YORK, January 7, 1903.

THE CENTRAL NATIONAL BANK
of the City of New York.

Pay to the order of Jasper T. Sheldon $350.00
Three Hundred, Fifty.....Dollars.

MONTAUK ICE COMPANY,
By HENRY P. WISE,
Treasurer.

Countersigned,
JOHN W. STYLES,
President.

Frequently the countersignature is written across the end of the check or even across its face. For reasons of convenience in handling the check, neither of these methods is to be recommended.

Where the by-laws merely require the official signatures of the treasurer and president to the corporate check, the form would be as follows:

Form 117.—Check. Official Signature.

Ellis Clothing Company,
154 Fourth Ave., N.Y.

No. 222. NEW YORK, March 24, 1903.

KNICKERBOCKER TRUST COMPANY,
Through the New York Clearing House.

Pay to the order of Nettie James $50
Fifty.....Dollars.

HENRY W. CRUIKSHANK,
Treasurer.

WILLIS SEMPLE,
President.

Frequently where the official signatures of president and treasurer are required as above, the two names will be signed

on the lower right hand side of the check, one below the other, as in the following form:

Form 118.—Check. Official Signatures. Purpose Stated.

Stilson Manufacturing Co.,
127 Centre St., N. Y.

No. 186.

New York, February 2, 1903.

MANHATTANVILLE NATIONAL BANK
of New York City.

Pay to the order of Merrick & Small $575.25

Five Hundred, Seventy-five 25/100.....Dollars.

In full for Dynamo.

Willis B. Stilson, Treasurer.
Harvey M. Hilton, President.

There is no objection to the entry on a check of the purpose for which it is issued, if placed so as not to obscure or interfere with the body of the check, and in the smaller corporations where the system of vouchers and receipts does not obtain, the plan is sometimes very convenient. The check then takes the place of the ordinary voucher, showing just what the payment was for, and, as it must be endorsed by the payee before collection, serving as a receipt as well.

Form 119.—Endorsement of Check payable to Corporation.

Willis Silk Company,
John Harris,
Treasurer.

This is the ordinary formal corporate endorsement, usually affixed by the treasurer or cashier, though the president is sometimes authorized thereto.

For deposit or collection, the following form of endorsement is preferred by the banks:

Form 120.—Endorsement of Check for Deposit.

.....

Pay to the order of the
CHASE NATIONAL BANK,
MONTAUK COAL COMPANY,
JOHN ELLSWORTH,
Cashier.

.....

This form of endorsement is usually affixed in its entirety—corporate name, official signature and all—with a rubber stamp. Such endorsement is, on account of the rapidity and convenience with which it may be applied, employed by almost all the larger corporations.

CHAPTER XXXIX.

ACKNOWLEDGMENTS, CERTIFICATES, ETC.

A corporation does not acknowledge signatures or the execution of instruments in its own name, but only through its officers. Each state has its own forms of acknowledgment. In New York, the general form would be as follows:

Form 121.—Notarial Acknowledgment. New York.

.....

STATE OF NEW YORK, }
County of New York, } *ss.*:

On this 15th day of January, in the year 1903, before me personally came John T. Hilton, to me known, who being by me duly sworn, did depose and say that he resided in the City of New York; that he was the President of the Hilton Wool Cleaning Company, the corporation described in and which executed the above instrument; that he knew the seal of said corporation; that the seal affixed to the said instrument was such corporate seal and that it was affixed by order of the Board of Directors of said corporation, and that he signed the corporate name thereto by like order, as President of said corporation.

JOHN T. HILTON.

Sworn to before me this 15th }
day of January, 1903. }

{ NOTARIAL } JOHN WISE,
{ SEAL. } Notary Public
for New York County.

.....

Had the treasurer joined with the president in the corporate signature, the last clause of the above form might be modified to read:

> "and that he, as president of said corporation, with the treasurer, signed the corporate name thereto by like order."

Form 122.—Notarial Acknowledgment. New Jersey.

.....

STATE OF NEW JERSEY, }
County of Essex, } *ss.:*

Be It Remembered, that on this 16th day of February, in the year of our Lord one thousand nine hundred and three, before a Master of the Court of Chancery of the State of New Jersey, personally appeared Robert J. Thompson, to me known, who, being by me duly sworn according to law, doth depose and make proof to my satisfaction that he knows the corporate seal of the Buena Vista Gold Mining Company, the grantor in the foregoing deed named; that the seal affixed to said deed is the proper corporate seal of said company; that James K. Edwards was at the time of the execution of said deed the President of said Company, and that the said deed was signed, sealed and delivered by him as such President, in the presence of the said deponent, as the voluntary act and deed of said company, and that said deponent thereupon subscribed his name as a witness thereto.

All of which I certify,

GEORGE M. HOLMAN,
Mastery in Chancery of New Jersey.

.....

This acknowledgment in New Jersey should be made by a subscribing witness, and it is usually most convenient to have it done by the secretary as he would be familiar with the seal and could identify the president. In other states it would be necessary to obtain the special form prescribed by the statutes of the particular state.

Form 123.—Treasurer's Affidavit to Financial Statement.

.....

STATE OF NEW YORK, }
County of New York, } *ss.:*

On this 18th day of March, 1903, personally appeared before me a Notary Public in and for the County of New York, John B. Dillon, Treasurer of the Merrick Oil Company, who, being duly sworn, did depose and say that he has full charge and control of the books and accounts of said Company; that the above and foregoing statement is taken from said books and accounts; that it is a true and accurate transcript therefrom, and that, to the best of his knowledge and belief, it is a just and correct presentation of the financial condition of said Company on this date.

JOHN B. DILLON,
Treasurer.

Sworn to and subscribed before me }
the day and year aforesaid. }

ALLEN A. SILVERTON,
Notary Public for
New York County.

{ NOTARIAL SEAL. }

.....

Any statement, report, notice or other document prepared by any of the officers of a corporation and requiring an affidavit, is ordinarily certified to by the officer by whom it was prepared, though any other officer having sufficient knowledge of the matter might act.

The official affidavits to the corporation reports required by statute in the State of New York are similar to the foregoing.

Where any meeting is of special importance, the secretary is usually required to submit a copy of the notice sent out for such meeting, together with his formal certificate that such notice was so sent out in accordance with the provisions of the by-laws. The form of certification is as follows:

Form 124. Secretary's Certificate to Due Service of Notice of Meeting.

.....

I, the undersigned, Secretary of the Albion Plow Share Company, do hereby certify that, in accordance with the by-law requirements of said Company, a copy of the foregoing notice, properly enclosed and directed and with postage prepaid, was by me mailed to the last known post office address of each stockholder of record of this Company, not less than ten days before the time of meeting announced in said notice.

GEORGE H. LYNDE,
Secretary.

NEW YORK CITY,
April 15th, 1903.

.....

Where the meeting is of unusual importance or formality, the secretary might be required to make affidavit to the proper service of notice. In such case the form of affidavit would be as follows:

Form 125.—Secretary's Affidavit to Due Service of Notice of Meeting.

.....

STATE OF NEW YORK, } *ss.:*
County of New York, }

On this fifteenth day of April, 1903, before me personally appeared George H. Lynde, Secretary of the Albion Plow Share Company, who, being duly sworn, did depose and say that on the fourth day of April,

1903, a copy of the attached notice, properly enclosed and directed and with postage prepaid, was by him mailed to the last known post office address of every stockholder of record of the said corporation.

GEORGE H. LYNDE,
Secretary.

Sworn to and subscribed before me the day and year aforesaid

JEREMIAH N. ANDERSON,
{ NOTARIAL SEAL }
Notary Public in and for
New York County.

.....

In either of these cases a copy of the notice in question would precede the certificate or affidavit on the same sheet or would be attached thereto. Where notice is given by publication, the best evidence that such notice has been properly given is furnished by copies of the papers in which such notice appeared. Where these papers are preserved no formal certificate or affidavit as to the publication of the notice is usually required. If, however, merely the notice itself is preserved, clipped from the paper, a certificate would be necessary as in the case of the written notice. The form of this affidavit would be as follows:

Form 126.—Secretary's Affidavit to Publication of Notice of Meeting.

.....

STATE OF NEW YORK, }
County of New York, } *ss.:*

On this 20th day of January, 1903, before me personally appeared George H. Lynde, Secretary of the Albion Plow Share Company, who, being duly sworn, did depose and say that the annexed notice was published in the New York Times on the 6th day of January, 1903, and on the 13th day of January, 1903.

GEORGE H. LYNDE,
Secretary.

Sworn to and subscribed to before me the day and year aforesaid.

JEREMIAH N. ANDERSON,
{ NOTARIAL SEAL }
Notary Public in and for the
County of New York.

.....

In active corporations the secretary is very frequently called upon to give certified copies of proceedings, resolutions, etc.

The following will give the general form for these certifications:

Form 127.—Certified Extract from By-laws.

.....

THE MARSTON MANUFACTURING COMPANY.

EXTRACT FROM BY-LAWS.

ARTICLE VI.—BUSINESS.

"1. The President shall have full power and authority to sign with the corporate signature any and all contracts or other instruments that may be necessary for the transaction of the regular business of this Company."

I, Henry Cornell, Secretary of the Marston Manufacturing Company, do hereby certify that the above is a true and correct copy of Section 1, Article VI., of the duly adopted by-laws of this Company, and in testimony thereof I have hereunto affixed my official signature and the seal of the Company in the City of Brooklyn on this the 12th day of June, 1903.

{ CORPORATE SEAL. } HENRY CORNELL, Secretary.

.....

Form 128.—Certified Resolution.

.....

THE MARSTON MANUFACTURING COMPANY.

RESOLUTION.

"Resolved, That the Treasurer be and hereby is authorized and instructed to open an account for the Company with the Seaboard National Bank of New York City, and to deposit therein all the funds of the Company coming into his custody; such account to be in the name of the Company, and funds deposited therein to be withdrawn only by check signed by the Treasurer and countersigned by the President."

I, Henry Cornell, Secretary of the Marston Manufacturing Company, do hereby certify that the foregoing is a true and accurate transcript of a resolution duly passed at the first meeting of the Board of Directors of said Company, held in the office of Morris P. Marston, 165 Grand Street, Brooklyn, New York, at 11 A. M., on the 10th day of June, 1903, said

transcript being taken from the minutes of the proceedings of that meeting.

In Testimony Whereof, I have hereunto affixed my official signature and the seal of the Company, in the City of Brooklyn, this 15th day of June, 1903.

{ CORPORATE SEAL. } HENRY CORNELL, Secretary.

.....

Form 129.—Certified Transcript from Minutes.

.....

ELLIS OIL COMPANY.

TRANSCRIPT OF MINUTES. SPECIAL MEETING OF DIRECTORS.

"Pursuant to call and notice, the Board of Directors of the Ellis Oil Company met in special meeting in the office of the Company, March 12, 1903, at 2 P. M. President James Hansell presided, Secretary Stahlman officiated as recording officer, etc." (Balance of Minutes to be inserted.)

I, the undersigned, Secretary of the Ellis Oil Company, do hereby certify that the above and foregoing is a true and accurate transcript of the minutes of the proceedings at the special meeting of the Board of Directors of said Company, held in the office of the Company on the 12th day of March, 1903, at 2 P. M., to consider and act upon a proposition to purchase the oil wells of the Beaumont Producer Company.

In Testimony Whereof, I have affixed hereunto my official signature and the seal of this Company, in the City of New York, on this the 16th day of March, 1903.

{ CORPORATE SEAL. } JAMES T. STAHLMAN, Secretary.

.....

The president might with propriety, if desired, unite with the secretary in the certification of any specially important transcripts. In such case the joint certification would be as follows:

Form 130.—Certification of Minutes. President and Secretary.

.....

We, the undersigned, President and Secretary respectively of the Ellis Oil Company, do hereby certify that the above and foregoing is a true and accurate transcript of the minutes of the proceedings at the special meeting of the Board of Directors of said Company, held in the office of the Company on the 12th day of March, 1903, at 2 P. M., to

consider and act upon a proposition to purchase the oil wells of the Beaumont Producer Company.

In Testimony Whereof, we have hereunto affixed our official signatures and the seal of the Company, in the City of New York, on this the 16th day of March, 1903.

{ CORPORATE SEAL. }

EARL G. RANSOME,
President.
JAMES T. STAHLMAN,
Secretary.

.....

Should, as is sometimes the case, an affidavit be required as to the authenticity of a transcript from the minutes, the form would be as follows, this affidavit either immediately following or taking the place of the certification:

Form 131.—Secretary's Affidavit to Certified Minutes.

.....

STATE OF NEW YORK, }
County of New York, } *ss.:*

On this 16th day of March, 1903, before me personally appeared James T. Stahlman, who, being duly sworn, did depose and say that he is the Secretary of the Ellis Oil Company; that he was present at the special meeting of the Directors of that Company held in the office of the Company on the 12th day of March, 1903; that he recorded the proceedings of said meeting in the Minute Book of said Company, and that the above and foregoing transcript is a true and correct copy of the minutes so recorded.

JAMES T. STAHLMAN,
Secretary.

Sworn to and subscribed before me on the day and year above stated.

{ NOTARIAL SEAL. }

HENRY M. PARKER,
Notary Public in and for
New York County.

.....

If desired, the president might join with the secretary in the above affidavit.

CHAPTER XL.

CORPORATE POWERS OF ATTORNEY.

The general form of the corporate power of attorney is the same as that of the ordinary form, differing only in those details directly incident to the corporate participation.

The degree of formality of the various powers of attorney—corporate or otherwise—differs greatly according to the nature of the instrument, from the simple proxy to the authorization to convey land, which requires the same formal execution and acknowledgment as does the deed itself.

It may be noted here that in the power of attorney—as in most legal forms—much verbiage might be omitted and a simpler document drawn that would, from a strictly legal standpoint, be equally binding and effective. From a practical standpoint, however, such documents would not answer so well, for to omit the familiar verbiage sanctioned by time, usage and adjudication, would create dissatisfaction and arouse suspicion. On this account it is safer and better to use the customary forms.

The following powers of attorney require little or no explanation, as their intent and use is obvious. For the form of testimonium or signature, where documents are executed for corporations by their agents appointed by power of attorney, see Form 108, Chapter XXXVII.

Speaking generally, a power of attorney may be revoked at any time by the principal.

A corporate power of attorney should always be accompanied by a certified copy of the resolutions by which it was authorized. (See Form 128.)

Form 132.—Corporate Power of Attorney. To Collect Money.

.....

POWER OF ATTORNEY.

Know All Men By These Presents, That the Tucson Cattle Company, a corporation duly organized under the laws of Arizona, does hereby make, constitute and appoint Henry W. Gardes, of the City of New York, its true and lawful attorney, for it and in its name, place and stead, to collect and receive from the New York Drovers' Association, of New York City, the sum of Three Thousand Dollars ($3,000), with interest thereon at the legal rate from the first day of January, 1903, said amount being due and payable the Tucson Cattle Company for and on account of cattle shipped the said New York Drovers' Association during the month of December, 1902; and the said Henry W. Gardes is hereby fully authorized and empowered, for and on account of the said Tucson Cattle Company and in its name, to collect and receipt for the said Three Thousand Dollars ($3,000) and the interest thereon as aforesaid, in whole or in part, but without prejudice to any portion thereof unpaid, and to incur and pay on behalf of the said Tucson Cattle Company all reasonable expenses incident to the collection of said claim, and generally to do all such other things in connection therewith as may be necessary and proper in the premises.

In Witness Whereof, the said Tucson Cattle Company has caused its corporate name to be signed hereunto by its President, and its corporate seal to be affixed and attested by its Secretary, all being done in the City of Tucson, Arizona, on this 25th day of March, 1903.

{ CORPORATE SEAL. }

THE TUCSON CATTLE COMPANY,
By GEORGE M. PRICE,
President.

ATTEST SEAL:
WILSON M. BIRNEY,
Secretary.

.....

Form 133.—Corporate Power of Attorney. To Sell Machinery.

.....

POWER OF ATTORNEY.

Know All Men By These Presents, That the Washington Machine Company, a corporation duly organized under the laws of the State of New York, with its principal office and place of business at 170 Broadway, New York City, has made, constituted and appointed, and by these presents does make, constitute and appoint, Joseph R. Lawson, of Philadelphia, Pennsylvania, its true and lawful attorney, for it and in its name, place and stead, to sell, bargain and convey, for such price and on such terms as may seem to him advisable, all that certain machinery, tools, apparatus and material belonging to said Company and now in

the factory building at 63 West Union Street, Philadelphia, Pa., and the said Washington Machine Company does hereby fully authorize its said attorney to execute, in its name, all such bills of sale or assignments therefor as may be necessary, and to do all such other things in connection with the sale of the said machinery, tools, apparatus and materials as may to him seem necessary and proper.

In Testimony Whereof, the said Washington Machine Company has caused its corporate signature and seal to be hereunto affixed by its President and Secretary, duly authorized thereto, all being done in the City of New York on this the 15th day of September, 1903.

{ CORPORATE SEAL. }

THE WASHINGTON MACHINE COMPANY,
By JOHN H. WELLINGTON,
President.
WILLIS S. HOLLINSBROOK,
Secretary.

.....

Form 134.—Corporate Power of Attorney. To Make Delivery of Deed.

.....

POWER OF ATTORNEY.

Know All Men By These Presents, That the Albany Milling Company, a corporation organized under the laws of the State of New York and having its principal office and place of business in Albany, in the same State, has made, constituted and appointed, and by these presents does make, constitute and appoint, John H. Adams, of New York City, its true and lawful attorney, for it and in its name and stead, to deliver to the New York Realty Company, of New York City, a certain deed duly executed by the said Albany Milling Company, and transferring to the said New York Realty Company the property therein described at Nos. 1298 and 1300 West Street, New York City, and to receive payment for the property transferred by said deed, and the said John H. Adams is hereby fully authorized and empowered, for and on behalf of this Company, to make good and valid delivery of the said deed and to receive from the said New York Realty Company the sum of Twenty-two Thousand Five Hundred Dollars ($22,500) in cash, payment for the property thereby transferred, and to receipt for said payment, and to do all such other things as may be necessary and proper in the premises.

In Witness Whereof, the President of the said Albany Milling Company has hereunto signed its corporate name, and the Secretary has hereunto affixed the duly attested seal of the said corporation, all being done in the City of Albany, on this the first day of September, 1903.

{ CORPORATE SEAL. }

ALBANY MILLING COMPANY,
By JOHN T. ANDERSON,
President.

ATTEST SEAL:
HENRY PARKER,
Secretary.

.....

The above power of attorney should have attached a certified copy of the resolution by which it was authorized, but would not require any special acknowledgment or execution, as it merely empowers the agent to deliver a fully executed deed. The following form authorizing the sale of land and the execution and delivery of deeds thereto would require the same full execution and acknowledgment as a deed, and without this would be ineffective.

Form 135.—Corporate Power of Attorney. To Manage, Sell and Deed Land.

.....

POWER OF ATTORNEY.

Know All Men By These Presents, That the Berwell Investment Company, a corporation duly organized and existing under and by virtue of the laws of the State of New York, and having its office and principal place of business at No. 30 Broad Street, in the City of New York, has made, constituted and appointed, and by these presents does make, constitute and appoint, Horace M. Maxwell, of Houston, Texas, its true and lawful attorney, for it and in its name, place and stead, to bond, grant, bargain, sell, contract, lease, exchange, give options on, sell timber from, sell or lease oil, coal or other mineral rights in or on, or handle or dispose of in such other way as may by him be deemed advantageous and advisable, and for such consideration and on such terms as he may approve, and in whole or in part, that certain tract or parcel of land, owned by said Berwell Investment Company, in Brazos County, Texas, consisting of the east half of the league of land known as the J. J. Oliver League, and containing Two Thousand Two Hundred and Fourteen (2,214) Acres, more or less, said land being part of the Headright granted to J. J. Oliver by the Mexican Government and surveyed by the County Surveyor in 1836, and conveyed to the Berwell Investment Company by deed from the said J. J. Oliver, dated July 1st, 1866, and recorded in the office of the County Clerk of Brazos County, D. B. 15, page 225; and the said Berwell Investment Company grants to its said attorney full power and authority to collect and receive for said Company all rents, royalties and other considerations or payments derived from the said property in any way; and for the said Berwell Investment Company and in its name and stead, either alone or jointly with others, as may be requisite and necessary, to make, execute, acknowledge and deliver good and sufficient deeds, conveyances, option contracts or leases for the said property, or for any parts thereof, or for any rights therein or thereon, giving and granting its said attorney full power and authority to do and perform any and every act and thing whatsoever requisite and necessary to be done in the premises, the said

Company hereby ratifying and confirming all that its said attorney shall lawfully do or cause to be done by virtue of this present indenture.

In Witness Whereof, the said Berwell Investment Company has hereunto caused its corporate name to be signed by its President and its corporate seal to be affixed by its Secretary, all being done in the City of New York on this the 18th day of August, 1903.

{ CORPORATE SEAL. }

THE BERWELL INVESTMENT COMPANY,
By JAMES WARREN,
President.

ATTEST SEAL:

WILLIS BAKER,
Secretary.

.....

This instrument is very sweeping in the powers conveyed. Providing for the conveyance of land in Texas, it would have to be acknowledged in accordance with the requirements of the Texas law for the acknowledgment of deeds.

Form 136.—Corporate Power of Attorney. Appointing General Agent.

.....

POWER OF ATTORNEY.

Know All Men By These Presents, That the Excelsior Novelty Company, of New York City, does hereby make, constitute and appoint John H. Sinton, of Cleveland, Ohio, its true and lawful attorney to represent it in the States of Ohio, Indiana and Illinois, and, for it and in its name, place and stead, to conduct and manage the business of the said Company in the States aforesaid, and the said Excelsior Novelty Company does hereby grant to its said attorney full power and authority to so represent it in the said States of Ohio, Indiana and Illinois, and to act for it and carry on its business therein, and to do all such things in said States in connection therewith as may be necessary and proper in the ordinary course of the Company's business, and the said Excelsior Novelty Company does hereby ratify and confirm all that its said attorney may properly do by virtue of the authority herein conferred.

In Testimony Whereof, the said Excelsior Novelty Company has caused its corporate signature and seal to be hereunto affixed by its President and Secretary in the City of New York on this the 31st day of March, 1903.

EXCELSIOR NOVELTY COMPANY,
By JOHN WELCH,
President.
HARVEY JAMES,
Secretary.

{ CORPORATE SEAL. }

.....

Form 137.—Corporate Power of Attorney. Appointing Agent for Specific Purposes.

POWER OF ATTORNEY.

Know All Men By These Presents, That the Adams Reaping Machine Company, a corporation duly organized under the laws of the State of Delaware, and having an office and its principal place of business in New York at 52 Broadway, New York City, has made, constituted and appointed, and by these presents does make, constitute and appoint, John C. Hartley, of Chicago, Illinois, its true and lawful attorney, for it and in its name, place and stead, to represent said Company and to act as the General Manager of its business, with the powers enumerated below, within all those States and Territories of the United States lying west of the Mississippi River.

1. To lease such office or offices and to purchase such furniture and fittings therefor as may be required for the transaction of the Company's business.

2. To employ such clerical and other assistance as may be necessary in the conduct of the Company's business and to pay reasonable salaries or commissions therefor.

3. To receive ,collect and, as may be necessary, to institute suit for the collection or recovery of any moneys or other property belonging to the Company.

4. To deposit in the Company's name and in such suitable bank or banks as he may elect, moneys of the Company coming into his hands, and, for purposes of the business, to draw checks against the same.

5. To draw and accept all such drafts and bills of exchange and give such notes, in the name of the Company, as may be necessary in the ordinary course of the business under his management.

6. To endorse for deposit or collection all such notes, checks, drafts and bills of exchange as may properly come into his hands in the course of the Company's business.

7. To enter into such contracts and undertakings on behalf of the Company, and to do all such other lawful acts within the scope of the duties of General Manager as may be requisite or desirable in the conduct of the Company's business.

In Witness Whereof, and in pursuance of a resolution passed by its Board of Directors at a regular meeting held on the 12th day of May, 1903, the President of said corporation has signed its corporate name to these presents, and its Secretary has hereunto affixed and attested the corporate seal, all upon this, the 13th day of May, 1903.

{ CORPORATE SEAL. }

ADAMS REAPING MACHINE COMPANY,
By HARVEY ADAMS,
President.

ATTEST SEAL:
HENRY C. SMITH,
Secretary.

CHAPTER XLI.

SUNDRY CORPORATE INSTRUMENTS.

The forms of the present chapter are not distinctively corporation forms, but are the important forms of everyday, ordinary business. They are, however, so constantly employed in the transactions of corporate business that they are given here to show the adaptation of the regular forms to corporate uses. The examples given are not intended to be in any way exhaustive, but merely to present a few of the more important forms to serve as precedents and to aid in the adaptation of the many other common forms.

Where these forms, from custom or because of statutory regulation, vary in the different states, the New York form has been generally followed. With but few exceptions, however, the corporate features of these forms are the same in the other states and may be readily adapted to the general form employed in the particular state where they are to be employed.

Form 138.—Bill of Sale.

.....

BILL OF SALE.

Know All Men By These Presents, That the Washington Machine Company, a corporation duly organized under the laws of the State of New York, with its principal office and place of business at 170 Broadway, in the City of New York, in consideration of the sum of One Thousand Dollars ($1,000) to it paid by the John C. Harris Company, of Philadelphia, the receipt whereof is hereby acknowledged, does hereby sell, transfer and assign to the said John C. Harris Company the following goods and chattels, viz.:

All of the machinery, tools and apparatus mentioned and specified in the annexed schedule and now in the factory building at 63 West Union Street, Philadelphia;

To have and to hold, all and singular, the said goods and chattels to the said John C. Harris Company, its successors and assigns, to their own use and behoof forever;

And the said Washington Machine Company does hereby covenant with the said grantee that the said Washington Machine Company is the lawful owner of said goods and chattels; that they are free from all liens; that it has good right to sell the same as aforesaid; and that it will warrant and defend the same against the lawful claims and demands of all persons.

In Witness Whereof, the said Washington Machine Company has caused its corporate name to be signed hereunto by its President, and its corporate seal to be affixed and duly attested by its Secretary, said corporate seal being affixed both to these presents and to the schedule hereunto annexed, all being done in the City of New York on this the 13th day of October, 1903.

{ CORPORATE SEAL. }

THE WASHINGTON MACHINE COMPANY,
By JOHN H. WELLINGTON,
President.

ATTEST SEAL:

WILLIS S. HOLLINSBROOK,
Secretary.

.....

The inventory or schedule of the goods conveyed by this bill of sale should be attached to it, and, in accordance with the provisions of the conveyance, be identified by the duly attested seal of the Company.

This bill of sale might with entire propriety have been executed by the agent of the transferring company under his power of attorney. (See Form 133.) In the present instance, however, the instrument is executed by the company and merely sent to its local agent, in Philadelphia, for delivery.

Form 139.—Assignment of Patent. Individual to Corporation.

.....

ASSIGNMENT OF PATENT.

Whereas, I, Alan Hudson, of Newburgh, County of Orange, State of New York, did obtain letters patent of the United States for an improvement in Car Couplings, which letters patent are numbered 605,948, and bear date the 6th day of November, in the year 1901; and, whereas, I am now the sole owner of said patent and of all rights under the same; and, whereas, the Montauk Car Coupler Company, a corporation duly organized under the laws of the State of New Jersey, and having its principal office and place of business at No. 15 Exchange Place, Jersey City, New Jersey, is desirous of acquiring the entire interest in the same;

Now, Therefore, to all whom it may concern, be it known, that for and in consideration of the issue to my order by the said Montauk Car Coupler Company of its entire capital stock, excepting ten (10) shares,

heretofore issued to the incorporators of said Company, the receipt of which aforesaid stock, amounting to Ninety-nine Thousand Dollars ($99,000), is hereby acknowledged, I, the said Alan Hudson, have sold, assigned and transferred, and by these presents do sell, assign and trnasfer, unto the said Montauk Car Coupler Company, the whole right, title and interest in and to the said improvement in car couplings and in and to the letters patent therefor aforesaid; the same to be held and enjoyed by the said Montauk Car Coupler Company for its own use and behoof, and for the uses and behoof of its legal representatives, successors and assigns, to the full end of the term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In Testimony Whereof, I have hereunto set my hand and affixed my seal at Newburgh, County of Orange, State of New York, this 18th day of March, 1903.

ALAN HUDSON. [L. S.]

In presence of
JACOB ELLIS,
HENDRICK N. ENSLOW.

.....

An assignment of patent does not require notarial acknowledgment under the Patent Office rules, but as an acknowledgment is prima facie evidence of the execution of the instrument, it is, as a matter of convenience and safety, usually affixed. The form given above, as well as Form 140, follows the Patent Office "Rules of Practice."

Form 140.—Assignment of Patent. Corporation to Corporation.

.....

ASSIGNMENT OF PATENT.

Whereas, One Alan Hudson did obtain letters patent of the United States for an improvement in Car Couplings, which letters patent are numbered 605,948, and bear date the 6th day of November, 1901; and, whereas, the Montauk Car Coupler Company, a corporation organized under the laws of the State of New Jersey, did by purchase, witnessed by duly executed assignment from the said Alan Hudson to the said Montauk Car Coupler Company, under date of March 18, 1903, acquire the said patent and all rights under the same, and is now the sole owner thereof; and, whereas, the Harrison Car Building Company, a corporation organized under the laws of the State of New York and having its office and principal place of business at 1825 West Broadway, in the City of New York, is desirous of acquiring the entire interest in the said patent;

Now, Therefore, to all whom it may concern, be it known, that for and in consideration of the sum of Ten Thousand Dollars ($10,000) paid to the said Montauk Car Coupler Company by the said Harrison Car Building Company, and in further consideration of four promissory

notes for Ten Thousand Dollars ($10,000) each, drawn in favor of the said Montauk Car Coupler Company by the said Harrison Car Building Company, all of said notes being of even date herewith, and payable respectively at three (3) months, six (6) months, nine (9) months and twelve (12) months from date thereof, without interest, the receipt of said payment and of all the said notes being hereby acknowledged by the Montauk Car Coupler Company, the said Montauk Car Coupler Company has sold, assigned and transferred and by these presents does sell, assign and transfer unto the said Harrison Car Building Company, the whole right, title and interest in and to the said improvements in car couplings and in and to the letters patent therefor aforesaid; the same to be held and enjoyed by the said Harrison Car Building Company for its own use and behoof, and for the use and behoof of its legal representatives, successors and assigns, to the full end of the term for which said letters patent are or may be granted, as fully and entirely as the same would have been held and enjoyed by the said Montauk Car Coupler Company had this assignment and sale not been made.

In Testimony Whereof, the said Montauk Car Coupler Company has hereunto caused its corporate name to be signed by its President and its corporate seal to be affixed and attested by its Secretary, all being done in Jersey City, New Jersey, on this the 15th day of April, 1903.

{ CORPORATE SEAL. }

MONTAUK CAR COUPLER COMPANY,
By WILLARD HENDERSON,
President.

ATTEST SEAL:
ELLIS CHANDLER,
Secretary.

.....

Acknowledgment of this instrument is not absolutely essential, but is advisable. (See Form 122.)

Form 141.—Assignment of Contract.

.....

ASSIGNMENT.

Know All Men By These Presents, That for and in consideration of the issue by the New Jersey Power Company, a corporation organized under the laws of the State of New Jersey and having its principal office and place of business at 524 Broad Street, Newark, New Jersey, of Fifty Thousand Dollars ($50,000) par value of its stock, full-paid and non-assessable, to the Allen Manufacturing Company, a corporation duly organized under the laws of the State of New York, and having its place of business at 152 Greenwich Street, New York City, the receipt of which stock is, by the last-named Company hereby acknowledged, said Allen Manufacturing Company does hereby assign, transfer and convey to the said New Jersey Power Company, all and singular, its right, title and interest of every kind in and to a certain contract, copy of which is hereunto annexed and made part of this present instrument, entered into on the 21st day of May, 1902, between John H. Carroll, of Albany, New York, and the said Allen Manufacturing Company, and vesting in the said last-named Company, its successors and assigns, under the conditions set forth in said contract, the exclusive right to

handle, purchase and acquire all the inventions and patents of the said Carroll for the application and utilization of steam power; said contract being conveyed to and accepted by the said New Jersey Power Company with all its rights, privileges and obligations, as therein set forth and as heretofore held by the said Allen Manufacturing Company.

In Witness Whereof, the said Allen Manufacturing Company has hereunto caused its corporate name to be signed by its President, and its duly attested corporate seal to be affixed by its Secretary, all being done in the City, County and State of New York on this the 13th day of April, 1903.

{ CORPORATE SEAL. } ALLEN MANUFACTURING COMPANY,
By CHARLES ALLEN,
President.

ATTEST SEAL:
MALCOLM HARDWICKE,
Secretary.

.....

Acknowledgment is not essential to this assignment, but is advisable. (See Form 121.)

Form 142.—Assignment of Contract. Endorsement Form.

.....

For and in consideration of One Dollar and of other sufficient considerations, the receipt of all which is hereby acknowledged, the Sterling Power Company does hereby sell, assign and convey to the Jones-Brown Machine Company, of Cohoes, New York, the within contract, with all its rights, privileges, obligations and undertakings, as therein set forth.

In Witness Whereof, the signature and the attested seal of the said Sterling Power Company are hereunto affixed by its duly authorized officers.

{ CORPORATE SEAL. } STERLING POWER COMPANY,
By MILLIS STERLING,
President.

ATTEST SEAL:
HENRY WELLINGS,
Secretary.

.....

The foregoing assignment is informal, but sufficient. It would be endorsed on the back of the contract to be assigned, and, as between the two companies mentioned therein, would place the assignee fully in the position theretofore occupied by the assignor. It should be noted, however, that the assigning company is not relieved from liability under the contract assigned unless expressly so stated and agreed to by the other party to that contract.

Form 143.—Chattel Mortgage. New York.

.....

CHATTEL MORTGAGE.

Know All Men By These Presents, That Whereas the Gem Printing Company, a corporation organized under the laws of the State of New York, is indebted unto the John Rogers Machinery Company, a corporation organized under the laws of the State of New Jersey, in the sum of Two Thousand Dollars ($2,000), being for goods sold and delivered unto the said Gem Printing Company;

Now, For securing the payment of the said debt and the interest thereon to the said John Rogers Machinery Company, the said Gem Printing Company does hereby sell, assign and transfer to the said John Rogers Machinery Company all the goods, chattels and property described in the following schedule, namely:

One Miehle Perfecting Press, No. 225;
One Miehle High-Speed Pony Press, No. 362;
One "Century" Campbell Press, No. 1345.

Said property now being and remaining in the possession of said Gem Printing Company, at its Press Rooms, No. 635 Murray Street, New York City.

Provided always, and this mortgage is on the express condition, that if the said Gem Printing Company shall pay to the said John Rogers Machinery Company, the sum of Two Thousand Dollars ($2,000), with interest from date hereof, at the rate of 6% per annum, on or before the first day of January, 1904, which said sum and interest the said Gem Printing Company hereby covenants to pay, then this transfer is to be void and of no effect; but should said Gem Printing Company not pay said sum, with interest to date of payment, on or before the date aforesaid, then the said Rogers Machinery Company shall have full power and authority to enter upon the premises of said Gem Printing Company, or any other place or places where the goods and chattels aforesaid may be, and to take possession of said property and to sell the same, or so much thereof as may be necessary to satisfy the said debt and the interest thereon from the proceeds thereof, after deducting all expenses of such sale and the keeping of said property; and any such sale shall be public and only after due announcement thereof for two weeks previous thereto in one of the daily papers published in the City of New York, and any proceeds in excess of the amount of said debt and interest thereon, and of the expenses of said sale and keeping of said property, shall belong to the said Gem Printing Company and be paid over to it without delay. If from any cause said property shall fail to satisfy said debt, interest, cost and charges, the said Gem Printing Company hereby covenants and agrees to pay the deficiency.

In Witness Whereof, the Gem Printing Company has caused its corporate signature to be signed hereunto by its President, and its corporate seal to be affixed and duly attested by its Secretary, this 18th day of September, 1902.

{ CORPORATE SEAL. }

GEM PRINTING COMPANY,
By WILSON GORDON,
President.

ATTEST SEAL:
EARL WALLIS,
Secretary.

.....

Add acknowledgment. (See Form 121.)

Form 144.—Deed. New York.

.....

DEED.

This Indenture, made the 10th day of February, in the year nineteen hundred and two, between the Merrill-Barrett Manufacturing Company, a corporation organized and existing under the laws of the State of New York and having its principal office and place of business at No. 27 Murray Street, New York City, of the first part, and Jasper H. Welles, of Albany, State of New York, of the second part:

Witnesseth, That the said party of the first part, in consideration of Ten Thousand Dollars ($10,000), lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the said party of the second part, his heirs and assigns forever, all that parcel of land

(Here insert description).

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

To have and to hold the above granted premises unto the said party of the second part, his heirs and assigns forever.

And the said party of the first part does covenant with said party of the second part as follows:

First—That the party of the first part is seized of the said premises in fee simple and has good right to convey the same.

Second—That the party of the second part shall quietly enjoy the said premises.

Third—That the said premises are free from incumbrances.

Fourth—That the party of the first part will execute or procure any further necessary assurance of the title to said premises.

Fifth—That the party of the first part will forever warrant the title to said premises.

In Witness Whereof, the said party of the first part, the Merrill-Barrett Manufacturing Company, has caused its corporate seal to be hereunto affixed and attested by its Secretary, and these presents to be signed, acknowledged and delivered in its name and behalf by its President, on the day and year first above written.

{ CORPORATE SEAL. } MERRILL-BARRETT MANUFACTURING COMPANY,
By MARLIN S. MERRILL,
President.

ATTEST SEAL:
EDGAR NELSON,
Secretary.

.....

Add acknowledgment. (See Form 121.)

CHAPTER XLII.

CORPORATE BOOKS AND SUNDRY FORMS.

Form 145.—Transfer Book.

.....

Ledger Folio 25. Transfer No. 139.

THE HEMMINGWAY PAPER STOCK COMPANY.

For value received, I hereby sell, assign and transfer to William S. Bassett, of Brooklyn, New York, Twenty-five (25) Shares of the Capital Stock of the above-mentioned Company now standing in my name on the Company books and represented by surrendered Certificates, Nos. 78, 95, 104.

Witness my hand and seal this 15th day of April, 1903, at Jersey City, New Jersey.

EDWARD B. HICKEY, [L. S.]
By LEMUEL MARKHAM,
Attorney.

New Certificates Nos. 335, 336.
Issued to William S. Bassett.
Ledger Folio 63.

.....

Almost invariably the transfer book is provided with a stub upon which are again entered the data relating to the transfer. As the transfer itself is in no case torn from or taken out of the book, this stub is not necessary, merely provides extra work for the secretary and may well be omitted. See Sections 44 and 148 for explanation of the method of using the transfer book.

The signature to the ordinary assignment of stock should always be witnessed, and the signature to the assignment of the transfer book is sometimes similarly verified. Inasmuch, however, as the transfer book assignment is usually signed by the secretary, or transfer agent, and, if otherwise, is signed in his presence, and almost invariably is merely supplementary of the ordinary duly witnessed assignment on the back of the

surrendered certificate, a witness to the signature on the transfer book is generally regarded as superfluous and is omitted.

The number of the transfer and the name of the company may be printed in at the time the transfer book is prepared, or may be left blank to be filled in with the pen at the time of transfer or prior thereto. The secretary or transfer agent usually acts as attorney for the person selling the stock, and fills out and signs the transfer as shown above. The data relating to the issue of the new certificate is no part of the transfer proper, being merely a memorandum for the convenience of the secretary when making the entry of the transfer in his stock book.

The transfer book is not required by the New York statutes and is not usually kept by the smaller corporations of that state. In New Jersey the transfer book is specifically required by the statutes and must be kept by every corporation doing business in the state.

Stock Book and Stock Ledger.

The stock book and the stock ledger are practically one and the same book, and the stock ledger is usually understood to be referred to when the term "stock book" is employed. In practice the stock ledger under its own name, or under the title "Stock Book and Stock Ledger Combined," is so arranged as to contain all matters that would properly be entered in a stock book or stock ledger.

In New Jersey, the statutes merely state that the "stock books" shall contain the names and addresses of the stockholders and the number of shares held by each. In New York, the statutes are much more specific and provide that a stock book shall be kept in which the following data must appear:

1. Names of stockholders arranged alphabetically.
2. Residence of stockholders.
3. Number of shares held by each.
4. Time stock was acquired.
5. Amount paid thereon.
6. From or to whom transferred.

The New York law is peremptory in regard to the keeping of such stock book, providing heavy penalties for failure so to do, and further providing that no transfer of stock shall be valid as against the corporation, its stockholders and creditors, for any purpose except to render the transferee subject to the usual statutory liability, until the transfer has been duly entered in the stock book.

The following forms of combined stock book and stock ledger comply with all the requirements of both the New York and the New Jersey laws, and will be found convenient and effective.

Form 146.—Stock Book and Stock Ledger Combined.

STOCK BOOK AND STOCK LEDGER COMBINED.

Name and Residence.	Date.	From or to Whom Transferred.	Full Paid or What Part Paid.	Certificate Numbers.		Number of Shares.		Balance.
				Taken Out.	Surrendered.	Disposed of.	Acquired.	
Geo. M. Anderson, Larchmont, New York.	Mar. 10	From Original Issue.	Full-paid	12	....	....	50	
	Aug. 23	To James White....	Full-paid	126	12	40	....	
	Sept. 15	From Henry Adams.	Full-paid	135	....	....	150	

The foregoing form represents the upper portion of a page of the combined stock book and stock ledger. The form as given is much reduced in size from the usual page, which is about seventeen inches lengthwise of the page and eight and one-half inches in depth. The leaves of the book should be indexed and the accounts arranged in alphabetical order. The name and address of the party with whom the account is kept does not appear at the head of the page, but in the first column on the left hand side, such number of lines being allotted him as will, in the opinion of the secretary, accommodate his account. If not likely to be active, five lines will probably be sufficient and four or five accounts may be entered on a single page. If likely to be active, ten or fifteen lines, or even the whole page, may be allowed for the one account. Where more than one account appears on a page, each account should be separated from the one which follows it, by a heavy single or double line ruled entirely across the page.

All purchases or sales of the stock by a stockholder of record are entered on his account in this book, one line across the entire page being devoted to each transaction. In the second column is entered the date, and in the third—if a purchase—the name of the stockholder of record from whom the stock is received, but, if a sale, the name of the party to whom the certificate is issued. If stock is full-paid, that fact is noted in the fourth column; if but partly paid, the amount actually received by the company on such stock would appear in this column. It should be remembered that the price received by the party selling such stock does not affect this entry in any way, only its condition as full-paid, or otherwise; the amount received by the company being recorded in order to show if there is any further liability to the company, or its creditors, on the stock so transferred.

In the fifth column, the numbers of the certificates issued to the party when he acquires stock are noted; in the sixth column, the numbers of the certificates he surrenders when he sells or

transfers stock. If he should sell but a portion of the stock represented by any certificate, the number of the new certificate issued to him for the balance of his stock unsold would be entered in the fifth column.

In the seventh column is entered the number of shares disposed of, and in the eighth column the number of shares acquired. These last two columns constitute the stock ledger proper, and the amount of stock at any time belonging to the party with whom the account is left may be found by taking the difference between their footings. In the last column these differences, or balances, may be entered if desired.

In the event of the party purchasing or otherwise acquiring stock, and, instead of having it issued to himself in a single certificate, having it issued in a number of certificates, as is quite frequently the case, the entry would vary according to the conditions. If the number of certificates were small, the transaction might be entered on a single line, all the certificate numbers being entered in the proper space in the fifth column in very small figures; or two or more lines might be devoted to the transaction in the same way. Another method is to devote a separate line to each certificate taken out as if it were a separate transaction. Where the number of certificates is very large, the transaction may be entered on one line and the certificate numbers noted at the foot of the account with a reference thereto in the fifth column where the numbers would otherwise have been entered.

The same conditions obtain where a number of certificates are surrendered for cancellation on a single sale of stock, and the arrangement of entry would be similar.

Form 147.—Stock Ledger.

CHARLES M. ABBOTT, NEW HAVEN, CONN.

Date.	To Whom Transferred.	Certificate Numbers.		Number of Shares.	Date.	From Whom Transferred.	Full Paid or What Part Paid.	Certificate Number.	Number of Shares.
		Surrendered.	Reissued.						
1902.					1902.				
July 12	M. K. Hoyt.....	28	75	10	May 10	Original Issue	Full paid	28	50
Sept. 3	Louis Smith.....	75	84	10	Nov. 25	Robt. Parker.....	"	112	80
1903.					1903.				
Jan. 31	Balance.....	.....	.....	130	Jan. 12	Geo. Breaker.....	"	191	20
				150					150
					1903.				
					Feb. 1	.....	.....	.....	130

The preceding stock ledger combines in compact form all the requisites of the stock ledger with all the statutory requirements of both New York and New Jersey as to the stock book.

The leaves of this book are indexed to secure the necessary alphabetical arrangement, and the name and residence of the stockholder appear at the head of the account as in the ordinary ledger. On the right hand side of the account the party is credited with the stock he purchases or otherwise acquires, and on the left hand side is debited with any stock disposed of. The difference between the two sides shows at any time the amount of stock standing to his credit.

On the debit or sales side of the account, the first column gives the date of the transaction, the second the name of the party to whom the stock is transferred, the third the number of the surrendered certificate, the fourth the number of the certificate reissued to the transferrer, in case but a portion of the stock represented by the surrendered certificate is sold, and the fifth column the number of shares disposed of.

On the credit side, the first column gives the date of purchase, the second the name of the party assigning the purchased stock, the third the character of the stock, whether full-paid or but part-paid, and if but part-paid the amount paid to the company thereon, the fourth column the numbers of the certificates issued to the party, and the last the number of shares acquired.

Should a number of certificates be taken out, or a number be surrendered, the entry or entries would be arranged as explained under the Stock Book and Stock Ledger Combined, Form 146.

Form 148.—Secretary's Oath.

.....

STATE OF NEW JERSEY, } ss.:
County of Hudson, }

Charles W. Manning, Secretary of the Spencer-Hutchins Company, being by me duly sworn, deposes and says that he will faithfully dis-

charge the duties of Secretary of said Company to the best of his skill and ability.

CHARLES W. MANNING.

Subscribed and sworn to before me this 15th day of January, 1903.

.....

In New Jersey the secretary must, under the statutes, be sworn to the faithful discharge of his duties. The foregoing is the form generally used. It would be suitable for any other state.

Form 149.—Treasurer's Bond.

.....

TREASURER'S BOND.

Know All Men By These Presents, That we, Charles F. Valois, of Brooklyn, New York, as principal, and Erl B. Smith and Harry Delany, both also of Brooklyn, New York, as sureties, are held and firmly bound unto the Hayward Refining Company, a corporation duly organized under the laws of the State of New York, its successors and assigns, in the sum of Ten Thousand Dollars ($10,000), to the payment of which to the said corporation, its successors or assigns, we do by these presents, jointly and severally, firmly bind ourselves, our heirs, executors and administrators.

Signed and sealed this twenty-third day of January, 1903.

The condition of the above obligation is that:

Whereas, The said Charles F. Valois has been elected Treasurer of the said Hayward Refining Company for the term of one year from the 20th day of January, 1903; and, whereas, the said Charles F. Valois may hereafter be re-elected, or may continue to act as such officer for a longer period than one year;

Now, Therefore, If the said Charles F. Valois shall hereafter in all respects fully and faithfully perform and discharge the duties of said office so long as he shall occupy the same or continue therein, and shall, when properly so required, fully and faithfully account to the said corporation, its successors or assigns, for all moneys, goods and properties whatsoever, for or with which the said Charles F. Valois may be in any wise accountable or chargeable to the said corporation, its successors or assigns, and if, in event of his death, resignation or removal from office, all books, papers, vouchers, money and other property of whatever kind in his custody belonging to the said corporation shall be forthwith restored to the said corporation, then this obligation shall be void; otherwise to remain in full force and virtue.

CHARLES F. VALOIS. [L. S.]
ERL B. SMITH. [L. S.]
HARRY DELANY. [L. S.]

Signed, sealed and delivered in the presence of

HARVEY JENNINGS.
WILSON H. BROWN.

.....

The foregoing form of bond for treasurer, with sureties, is general and suited for any state. It should be acknowledged by all the subscribing parties. In corporations where the amounts of money or other property coming into the treasurer's care are insignificant, such bond is not usually required. In all the more important corporations, and wherever large amounts or values come into the hands of the treasurer, a bond is given as a matter of course. The bond should be executed before the treasurer is installed in office, and would properly be held in custody of the secretary unless otherwise directed by the Board.

Form 150.—Indemnity Bond. For Re-issued Certificate.

.....

INDEMNITY BOND.

Know All Men By These Presents, That we, James B. Allen, of Yonkers, New York, as principal, and Walton H. Wernicke, of New York City, as surety, are held and firmly bound unto the Montauk Dredging Company, a corporation duly organized under the laws of the State of New York, its successors and assigns, in the sum of Five Thousand Dollars ($5,000), to the payment of which to the said corporation, its successors and assigns, we do, by these presents, jointly and severally, firmly bind ourselves, our heirs, executors and administrators.

Signed and sealed this twenty-third day of April, 1903.

The condition of the above obligation is that:

Whereas, The said James B. Allen, the owner of record of twenty-five (25) shares of the capital stock of the said Montauk Dredging Company, of the par value of $100 each, has made application to the Board of Directors of the said Company for the issue to him of a new certificate for the said twenty-five shares of stock, alleging that the original certificate, No. 175, issued to him therefor on the 21st day of May, 1901, is lost, stolen or destroyed, and that its present whereabouts and condition are unknown to him; and

Whereas, The said applicatioan has been granted, and the said new certificate for twenty-five shares of the stock of the Montauk Dredging Company, pursuant to due and formal resolution of the said Board of Directors, was this day issued to the said James B. Allen;

Now Therefore, If the said James B. Allen, his heirs, executors or administrators, or any of them, do and shall, from time to time, and at all times hereafter, save, defend, keep harmless and indemnify the said Montauk Dredging Company, its legal successors and assigns, of, from and against, all demands, claims, or causes of action, arising from or on account of said certificate No. 175 for twenty-five shares of the capital stock of the said Montauk Dredging Company, and of and from all costs, damages and expenses that shall or may arise therefrom, and shall also deliver, or cause to be delivered up to the said Montauk Dredging Company the said missing certificate No. 175 for cancellation, whenever

and so soon as the same shall be found, then this obligation shall be void; otherwise to remain in full force and virtue.

JAMES B. ALLEN. [L. S.]
HENRY F. WERNICKE. [L. S.]

Signed, sealed and delivered in the presence of

JOSEPH HEINZELMAN.
WILLIAM G. SINCLAIR.

.....

The foregoing indemnity bond would be suitable for any state. It is used where a stock certificate has been lost or stolen, and, in order to sell the stock, or to use it as collateral for a loan, or merely to have the matter in proper shape, the owner of the missing certificate wishes it replaced by a new certificate.

The possession of a certificate as evidence of stock owned would not be necessary either to draw dividends or to appear and vote such stock at stockholders' meetings. (See § 45.)

CHAPTER XLIII.

THE CORPORATE CALENDAR.

The corporate calendar occupies the same place in corporate affairs that the note or collection tickler does in banking matters, and is almost as essential if the various formalities of corporate procedure, such as notices, meetings, reports, etc., are to receive due and proper attention.

The calendar consists of memoranda covering all those important formalities connected with the corporation that must be attended to at stated times. These memoranda are so arranged in proper chronological order that the secretary may at any time, by a mere glance at his calendar, see just what corporate duties require his attention. The forms which follow give the general arrangement and may be readily adapted for any state.

The corporate calendar is frequently entered in the minute book. There are, however, objections to this plan, as it necessitates frequent references to the minute book, and this, in practice, the secretary is liable to neglect. The better plan is to have the calendar entered on a special card, or on a desk calendar, so hung or placed that it cannot be overlooked. Or, if the minute book plan is preferred, in addition thereto, a small card or "tickler" may be prepared, which, kept on the desk, will call attention to the dates upon which the calendar in the minute book should be consulted.

The New York calendar for 1903 which follows is for a corporation having its principal place of business in the City of New York, and holding its annual meeting of stockholders on

the second Tuesday in January, at 3 P. M., with quarterly meetings of directors on the second Wednesday of January, April, July and October, at 4 P. M. Its by-laws require ten days' notice of annual meetings and five days' notice of directors' meetings. The stock book is closed twenty days before the annual meeting.

It will be noticed that under this arrangement of meetings the January directors' meeting will usually fall on the day following the annual meeting. As the directors for the ensuing year are elected at this annual meeting, the regular five days' notice of the January directors' meeting would antedate the election of directors. Under these circumstances, if the election were duly held, the notice of meeting already sent out would not be legal notice of such directors' meeeting, nor, unless the old board were re-elected, would it even reach the parties entitled to attend the meeting. The arrangement of meetings under which such a situation could occur, though common, is awkward, and it would be better to either place the directors' meeting later in the month or hold the stockholders' meeting earlier, in order to avoid this complication.

The secretary would meet the difficulty by sending out his regular notices of the January directors' meeting; then, if the election should for any reason fail, such meeting would be held under this regular notice. If, however, the election were held, the regular notice would be vitiated and of no effect, and the secretary would disregard this notice entirely and provide for the meeting of the board on the proper date by means of a call and waiver signed by all the newly-elected members. (See Forms 78, 79.)

The amount of detail entered on the corporate calendar will depend entirely upon the ideas of the individual secretary, ranging from a mere skeleton outline of the statutory and by-law reports and notices required, to a compendious memorandum of corporate procedure. It is advantageous to enter reasonably full details, as to do so may save much subsequent research and trouble.

In the following calendar the date for filing of reports, payment of taxes, etc., is entered fifteen days in advance of the last day allowed by law; that is, a report that may be deferred if desired until the 30th day of January, is entered on the calendar under date of January 15th. This is a precaution that may be varied to suit the individual. A safe margin should, however, always be left, and the fifteen days' margin of the present calendar is not excessive.

If for any reason a report or other detail of the corporate calendar is deferred to a later date than that given, a special memorandum of the deferred detail should be made on the calendar itself—or on a slip attached to the calendar—under the proper date in order that such item may not be overlooked and neglected until too late.

In arranging a corporate calendar for other states, the reports to be made, time of filing same, dates for payment of taxes, etc., will be taken from the statutory or local requirements of the particular state; the date of annual meeting, dates for directors' meetings, times for closing transfer books, etc.—unless fixed by statute—from the by-laws of the corporation.

Form 151.—Corporate Calendar. New York.

.....

CORPORATE CALENDAR

of the

HUDSON RIVER PACKING COMPANY,

of New York City.

1903.

January.

2nd. *Franchise Tax Payable.* Must be paid before January 15th. Based upon November report. Amount of tax fixed and statement thereof rendered to Company by State Comptroller, to whom checks should be made payable.

3rd. *Notify Stockholders of Annual Meeting* to be held January 13th.

9th. *Notify Directors of Meeting* to be held January 14th. If directors are elected at annual meeting this notice will be vitiated and must be replaced by waiver of notice signed, after the election, by all the newly elected directors. (See preceding comment on corporate calendars.)

1903.

January.

13th. *Annual Meeting of Stockholders* at 3 P. M.

14th. *Directors' Meeting* at 4 P. M. If election of directors was held at annual meeting, have waiver of notice signed by each director.

15th. *Annual Report.* To State officials. Must be filed before January 30th. Execute in duplicate and file with both Secretary of State and County Clerk. No State filing fees. County Clerk's fee, 6c. Blanks not supplied by officials. No penalty is incurred if this report is omitted unless such filing is requested by some stockholder or creditor of the Company. If so requested, report must be filed within thirty days after such request is made.

15th. *Notice of City Assessment* sent out about this time. If not received, enquiry should be made at office of Commissioners of Taxes and Assessments to ascertain amount, as the Commissioners are under no obligation to send out any notice thereof. If assessment is unsatisfactory, application for revision, accompanied with a statement of the actual condition of the Company, as of the second Monday in January, must be sent in to the Commissioners of Taxes and Assessments not later than March 31st. Blanks for application and statement furnished by Commissioners.

February.

March.

15th. *Statement and Application* for revision of unsatisfactory assessments, if not already filed, should be sent in to the Commissioners of Taxes and Assessments without delay. Will not be received after March 31st. Blanks furnished by Commissioners. No fees.

April.

3rd. *Notify Directors of Meeting* to be held April 8th.

8th. *Directors' Meeting* at 4 P. M.

May.

June.

July.

3rd. *Notify Directors of Meeting* to be held July 8th.

8th. *Directors' Meeting* at 4 P. M.

August.

September.

23rd. *City Taxes.* Get statement of amount from Assessors' office. If paid before November 1st, rebate at rate of 6% per annum is allowed from date of payment to December 1st.

October.

9th. *Notify Directors of Meeting* to be held October 14th.

14th. *Directors' Meeting* at 4 P. M.

November.

1st. *Comptroller's Report.* Must be sent in on or before November 15th. Blanks furnished by Comptroller. No fees.

15th. *City Taxes.* If not paid before December 1st, 1% is added to amount.

1903.
December.
15th. *City Taxes,* if still not paid, draw interest at the rate of 7% per annum from January 1st.
22nd. *Close Transfer Books* for annual meeting of Jan. 12th, 1904.

.....

The following New Jersey calendar is for the year 1903, for a corporation holding its annual meeting of stockholders on the first Tuesday in January, at 10 A. M., its quarterly directors' meetings on the second Tuesday in January, April, July and October, at 2 P. M., with ten days' notice of annual meeting and five days' notice of directors' meetings; paying regular annual dividends on the first Monday in February, and closing the transfer books twenty days before the annual meeting and ten days before the dividend day. On account of the very diverse times and methods of assessing, correcting errors and paying local taxes in various parts of the state, all dates for local taxes have been omitted. Corporations organized in New Jersey, but doing business outside that state, will not require this data. New Jersey corporations carrying on their business in the state must be governed by the local regulations and make the proper entries for local taxation in accordance.

The closing of the transfer books, the preparation of the alphabetical list of stockholders and the notice of the annual meeting, preliminary to the stockholders' meeting for 1903, do not appear on the following calendar, as all these matters would have been already attended to on the proper dates in December, 1902.

Form 152.—Corporate Calendar. New Jersey.

.....

CORPORATE CALENDAR
of the
SPRING VALLEY CHEMICAL COMPANY
of New Jersey.

1903.
January.
6th. *Annual Meeting of Stockholders* at 10 A. M.
8th. *Notify Directors of Meeting* to be held January 13th.

1903.

January.

13th. *Directors' Meeting* at 2 P. M.
23rd. *Close Transfer Books* for annual dividend day, Feb. 2nd.

February.

2nd. *Annual Report* must be filed with Secretary of State within thirty days of annual meeting. Feb. 14th last day. Blanks furnished by Sec'y of State. Filing Fees $1.00.
2nd. *Dividend Day.*
14th. *Annual Report,* if not already filed, must go in to-day.

March.

April.

9th. *Notify Directors of Meeting* to be held April 14th.
14th. *Directors' Meeting* at 2 P. M.
20th. *Report to State Board of Assessors.* Made as basis of assessment of franchise tax. Blanks furnished by State Board. Report must be made on or before first Tuesday in May. No fees.

May.

5th. *Report to State Board of Assessors.* Last day for filing. (First Tuesday in May.)

June.

2nd. *Franchise Tax Assessed.* Must be paid on or before July 1st, otherwise penalty of 1% per month is added. Appeal for correction of any errors may be made to State Board of Assessors any time within three months from date.

July.

1st. *Franchise Tax.* Last day for payment without penalty.
9th. *Notify Directors of Meeting* to be held July 14th.
14th. *Directors' Meeting* at 2 P. M.

August.

September.

October.

8th. *Notify Directors of Meeting* to be held October 13th.
13th. *Directors' Meeting* at 2 P. M.

November.

December.

16th. *Close Transfer Books* preparatory to Annual Meeting, January 5th, 1904.
26th. *Prepare Alphabetical List* of stockholders. Must be kept open for inspection of stockholders until annual meeting and be presented at that meeting.
26th. *Notify Stockholders of Annual Meeting* to be held January 5th, 1904.

.....

GENERAL INDEX.

[References are to pages.]

A

ACCEPTANCE OF CHARTER, 24.
Form, 251.

ACCOUNTS, Audit of, 73.
Books of, 77, 132.

ACKNOWLEDGMENT of Charter, 22, 171, 174.
Forms, 171, 174.
of Corporate Instrument, 141, 278.
Forms, 278, 279.

ADJOURNED MEETING of Directors, 118, 122.
of Stockholders, 51, 99, 106.
Form, 259.

ADJOURNMENT, 99, 106, 113, 118, 122.

ADOPTION OF BY-LAWS, 18, 25, 28, 65.
Form, 251.

ADVANTAGES OF CORPORATE FORM, 19, 20.

AFFIDAVITS, Secretary's, 280, 281.
Forms, 280, 281, 284.
Treasurer's, 279.
Forms, 279, 280, 281.

AGENT, Appointment of, 25. (See also Attorney.)
Forms, 289, 290.

AGREEMENT, Execution of, 141. (See also Contracts.)
Forms, 201, 268, 269.
Signatures to, 141, 205.
Forms, 266 to 270.

ALPHABETICAL LIST OF STOCKHOLDERS, 95, 97, 110.
Form, 221.

ALTERATION. (See Amendment.)

AMENDMENT of By-Laws, 30, 65, 90, 105.
Form, 231.
of Charter, 22.
of Minutes, 100, 116, 127.

ANNUAL ELECTION OF DIRECTORS, 45, 47, 48, 102, 103.
Forms, 253, 262.

ANNUAL MEETING OF STOCKHOLDERS, 45, 48, 93.
Forms, 223, 262.
Notice of, 93, 99.
Forms, 246, 247.

ANNUAL REPORTS, 101, 117, 142, 143. (See also Reports.)
Forms, 228, 229.

APPLICATION FOR CHARTER. (See Certificate of Incorporation.)

APPOINTMENT of Agent, 25, 285.
Forms, 289, 290.
of Attorney, 25, 285.
Forms, 286 to 290.
of Officers, 19, 25, 64, 71.
of Proxies, 51, 94, 97.
Forms, 191 to 196.

APPROVAL OF MINUTES, 100, 116, 127.

ARTICLES OF ASSOCIATION. (See Certificate of Incorporation.)

ASSESSMENTS, Notice of, 212.
Form, 212.
Waiver of Notice of, 213.
Form, 213.

ASSETS, Sale of Entire, 55, 111, 112, 203, 204.
Forms, 203, 204.

ASSIGNMENT of Contract,
Forms, 294, 295.
of Instalment Scrip, 159.
Form, 159.
of Patent, 293.
Forms, 292, 293.
of Property for Stock, 35, 36, 43, 149, 205, 216.
Forms, 205, 218, 251, 254.
of Receipt, 156.
Forms, 156, 159.
of Stock, 20, 38, 133, 137, 139.
Forms, 167, 168.
of Subscriptions, 219.

ATTESTATION OF SEAL, 90, 141, 267.
Form, 268.

ATTORNEY, Appointment of, 25. (See Proxies.) (See Counsel.)
Forms, 286 to 290.

AUDITING COMMITTEE, 83.

AUDIT OF ACCOUNTS, 73.

AUDITOR, 83.

AUTHORITY. (See Directors, Officers, President, etc.)

B

BANK DEPOSITS, 87, 179, 201.
Forms, 179, 189, 201.

BILL OF SALE,
Form, 291.

BOARD OF DIRECTORS. (See Directors.)

BOND of Indemnity, 39.
Form, 307.
of Treasurer, 77, 256.
Form, 306.

BONDS, Issuance of, 87.

BOOKS, Account Books, 77, 132.
Closing Books, 93.
Corporation Books, 132, 298.
Inspection of, 41, 140.
Minute Book, 124.
Secretary's Books, 41, 132.
Stock Book, 41, 139, 140, 299.
Form, 301.
Stock Certificate Book, 37, 133, 160.
Forms, 161, 164, 165.
Stock Ledger, 41, 139, 140, 299.
Form, 304.
Transfer Book, 41, 137, 138, 298.
Form, 298.
Treasurer's Books, 77, 132.

BORROWING MONEY, 87.

BUSINESS CORPORATIONS, 16.

BUSINESS, New, 105, 117.
Order of, 53, 67, 96.
Special, 111, 112, 120, 121.
Unfinished, 105, 117.

BY-LAWS, 18, 25, 28, 176.
Forms, 177, 181.
Certified Extract from.
Form, 282.

C

CALENDAR, Corporate, 143, 309.
Forms, 311, 313.

CALLED MEETING. (See Special Meeting.)

CALL AND NOTICE, Proof of, 99, 110, 115, 121.

CALLS, 238.
Forms, 239 to 242.

CALLS AND WAIVERS, 46, 62, 110, 113, 120, 232.
Forms, 233 to 236.

CALL OF ROLL, 97, 110. (See also List of Stockholders.)
Form, 222.

CALLS FOR ASSESSMENTS, 36.
Forms, 212, 213.

CAPITAL STOCK. (See Stock.)

CERTIFICATE OF INCORPORATION, 18, 21, 169, 170, 172.
Forms, 170, 172.
Amendment of, 22.
Certified Copy, 23.
Execution of, 22.
Filing of, 23, 24.
Parties, 21.
Purposes, 21.
Powers Incident to, 24, 25, 26.

CERTIFICATE, of Inspectors, 95, 103, 225.
Forms, 226 to 227.
of Secretary.
Forms, 280, 282, 283.

CERTIFICATE OF STOCK, 17, 37, 133, 160.
Forms, 161 to 166.
Assignment of, 20, 38, 133 to 139.
Forms, 167, 168.
Book, 37, 133.
Cancellation of, 133.
Common Stock, 35.
Form, 161.
Lost, 39. (See Indemnity Bond.)
Preferred Stock, 41, 163.
Forms, 164, 165.
Transfer of, 38, 133, 137.
Forms, 167, 168.

CHAIRMAN OF BOARD, 83.

CHARTER. (See Certificate of Incorporation.)

CHECKS. (See Corporate Checks.)

CHATTEL MORTGAGE, Corporate.
Form, 296.

CITIZENSHIP OF CORPORATION, 44.

CLASSIFICATION of By-Laws, 32.
of Directors, 60.
of Stock, 34, 35, 41, 43

CLOSING BOOKS, 93.

COMMERCIAL PAPER, 271.
Forms, 271 to 277.

COMMITTEE, Auditing, 83.
Executive, 66.
Report of, 231.
Form, 231.

COMMON STOCK, 35.
Form, 161.

COMPANY, 15, 162.
Joint Stock, 16.

CONSENT MEETINGS, 62, 120, 122, 237.
Form, 237.

CONTRACTS, 141, 291.
Forms, 291 to 297.
Assignment of.
Forms, 294, 295.
Execution of, 141.
Form, 201.
Signatures to, 141.
Forms, 266 to 270.

CORPORATE ACKNOWLEDGMENT, 278.
Forms, 278, 279.
Calendar, 143, 309.
Forms, 311, 313.
Checks, 273.
Forms, 274 to 277.
Notes, 271.
Forms, 271, 272.
Powers of Attorney, 285.
Forms, 285 to 290.

Proxies, 195.
Forms, 195, 196.
Seal, 25, 89, 141, 179, 189.
Attestation of, 90, 141, 267.
Form, 268.
Signatures, 141, 265.
Forms, 266 to 270.
System, 18.

CORPORATION. (See separate headings of sub-titles for Form references.)
Advantages of, 19, 20.
Books, 41, 132, 298.
Business, 16.
By-Laws, 18, 28.
Calendar, 143, 309.
Charter, 18, 21, 169.
Classification, 15, 16.
Contracts of, 141, 291.
Directors, 18.
Dissolution, 25.
Domestic, 44.
Foreign, 44.
Formation of, 17.
Liability in, 19.
Officers of, 19.
Offices of, 67.
Powers, 21, 24, 25, 26.
Seal, 25, 89, 141, 179, 189.
Stock, 15, 16, 20, 34.
Ultra Vires, 27.

COUNSEL, 71, 80.

CUMULATIVE VOTING, 48, 49.

CUMULATIVE DIVIDENDS. (See Preferred Stock.)

CUT AND DRIED MINUTES, 130.

D

DEBT, By-Law, 87.
Directors' Liability for, 27, 68, 69.
Officers' Liability for, 27, 81.
Stockholders' Liability for, 19, 55.

DECREASE OF CAPITAL STOCK, 22.

DEED, Corporate.
Form, 297.

DE FACTO OFFICER, 84.

DEPOSIT IN BANK, 87, 179, 201.
Forms, 189, 201, 276, 277.

DIRECTORS, 18, 57. (For Form references see separate headings of sub-titles.)
Authority, 57, 65, 90.
Chairman of Board, 83.
Classification, 60.
Compensation, 65.
Dissent from Illegal Action, 68.
Duties, 57, 69.
Election, 48, 102.
Election of Officers, 64.
Executive Committee, 66.
Failure to Elect, 48.
Liabilities of, 27, 68, 69.
Meetings, 61, 62, 63, 114, 120.
Number of, 18, 23, 57.
Order of Business, 67.
Powers of, 57, 65, 90.
Qualifications, 59.
Quorum, 63.
Removal, 60.
Resignation, 207.
Vacancies, 60.

DISSOLUTION OF CORPORATION, 25, 26.

DIVIDENDS, 85, 179, 188.
Forms, 202, 213, 214.

DOMESTIC CORPORATION, 44.

DURATION OF CORPORATION, 20.

DUTIES of Counsel, 80.
of Directors, 57, 69.
of General Manager, 79.
of Managing Director, 78.
of Officers, 71.
of President, 72.
of Secretary, 76, 132, 141.
of Treasurer, 77.

E

Elections, Annual for Directors, 45, 48, 102, 103, 104.
Form, 253.
Inspectors of, 48, 95, 102, 103, 225.
Forms, 225 to 227.
Notice of, 47, 214, 215.
Forms, 246, 247.
of Officers, 64, 71.
Proxies for, 51, 94, 97, 190.
Forms, 191 to 196.
Quorum at, 50, 51.
Voting, 47.

Enforcement of By-Laws, 30, 90.

Exchange of Property for Stock, 35, 36, 43, 149, 205, 216.
Forms, 205, 218, 251, 254.

Execution of Contracts, 141, 201.
Forms, 266 to 269, 291 to 297.

Executive Committee, 66.

Exemptions from Taxation, 142.

F

Fees for Incorporation.
New Jersey, 174.
New York, 171.

Filing Charter, 23, 24, 171, 174.

First Meeting, 24, 113.
Minutes of, 249.
Forms, 251, 254.

Foreign Corporations, 44.

Forfeiture of Stock, 36.

Formation of a Corporation, 17.

Fraud, 68, 69, 81.

Full Paid Stock, 35, 43, 149.

Funds of Corporation, 86.

G

General Manager, 64, 71, 79.
Notice of Election as.
Form, 215.

Guaranteed Stock, 35. (See Preferred Stock.)

I

INCORPORATION, Advantages of, 19, 20.
Certificate of, 18, 21, 169.
Forms, 170, 172.

INCORPORATORS, 21.

INCREASE OF CAPITAL STOCK, 22.

INDEBTEDNESS, 87.

INDEMNITY BOND, 39.
Form, 307.

INSPECTION OF BOOKS, 41, 140.

INSPECTORS OF ELECTION, 48, 95, 102, 103, 104, 225, 253.
Forms, 225 to 227.

INSTALMENT SCRIP, 157.

ISSUANCE OF STOCK FOR PROPERTY. (See Exchange of Property for Stock.)

ISSUE OF BONDS, 87.

ISSUED STOCK, 35.

IRREGULAR PROCEDURE, 31.

J

JOINT STOCK COMPANIES, 16.

L

LAND, Deed of.
Form, 297.
Power to Convey.
Form, 288.
Power to Hold, 25.

LAW, Parliamentary, 91.

LEDGER, Stock, 41, 139, 140, 299.
Form, 304.

LIABILITY of Directors, 27, 68, 69.
of Officers, 27, 81.
of Stockholders, 19, 55.

LIST OF STOCKHOLDERS, 95, 97, 110.
Forms, 221, 222.

LOANS, 87.

LOST CERTIFICATE, 39.
Indemnity Bond, 307.

M

MANAGER, General, 79.
Notice of Election, 215.
MANAGING DIRECTOR, 78, 202.
Appointment of, 202.
MEETINGS. (See also Minutes.)
Adjourned, 50, 99.
Form, 259.
Adjournment, 99, 106, 113, 118, 122.
Annual, 45, 48, 93.
Forms, 223, 262.
Calls and Waivers for, 46, 62, 110, 121, 232.
Forms, 233 to 237.
Consent, 62, 120, 122, 237.
Form, 237.
Directors', 61, 62, 114, 120.
Forms, 254, 260, 263.
Directors' First, 24, 234, 249.
Form, 254.
Regular, 61, 114.
Form, 263.
Special, 62, 120, 260.
Form, 260.
Notice of, 47, 63, 93, 99, 110, 115, 121, 244.
Forms, 244 to 248.
Officers', 52, 96, 109.
Opening, 96, 109, 114, 121.
Order of Business, 53, 67, 96, 220, 221.
Proof of Notice, 99, 110, 115, 121.
Proxies, 51, 94, 97, 190.
Forms, 191 to 196.
Publication, 93, 94, 99.
Forms, 245, 247.
Quorum, 50, 63, 97, 115.
Stockholders', 24, 113.
Forms, 251, 253, 262.
First, 24, 113, 233.
Forms, 251, 253.
Regular, Annual, 45, 48, 93.
Forms, 223, 262.
Special, 46, 108, 235.
Forms, 202, 235, 239 to 241, 257, 259.
Voting, 47.

MINUTES, 124. (See also Meetings.)
Amendment of, 100, 116, 127.
Approval of, 100, 116.
Annual Meeting, 93.
Forms, 223, 262.
Book of, 124.
"Cut and Dried," 130.
Directors', 114, 120.
Forms, 254, 260, 263.
First, 249, 251, 254.
Reading, 100, 116.
Signing, 106.
Special, 257.
Forms, 257 to 261.
Stockholders, 93.
Forms, 223, 251, 253, 262.
Taking Proceedings, 128.
Transcript of.
Forms, 283, 284.
MONEY, 77, 85.
MORTGAGE, 87.
MOTIONS, 117, 129, 198. (See also Resolutions.)
Forms, 199 to 200.

N

NAME, Change of, 22.
NOTARIAL ACKNOWLEDGMENT, 278.
Forms, 278, 279.
NOTES, Corporate, 271.
Forms, 271 to 272.
NOTICES, 212.
of Directors' Meetings, 63, 247.
Forms, 247, 248.
of Dividends, 213.
Forms, 213, 214.
of Election as Director, 214.
Forms, 214, 215.
of Election as General Manager, 215.
Form, 215.
of Stock Assessment, 212.
Form, 212.
of Stockholders' Meeting, 47, 93, 244.
Forms, 244 to 247.
Proof of Notice, 99, 110, 115, 121, 280, 281.

NUMBER OF DIRECTORS, 18, 57.
Change of, 23.

O

OATH of Inspectors.
Forms, 225, 227.
of Secretary, N. J.
Form, 305.

OBJECTS OF CORPORATION, 21.

OFFICE, Change of, 23.
In other States, 67.
Principal, 67.

OFFICERS, 19, 71. (See Heading under Title of each Officer.)
De Facto, 84.
Election of, 64, 71.
Liabilities of, 27, 81.
of Meetings, 52, 96, 109.
Qualifications, 71.
Salaries, 64.
Removal, 72.
Vacancies, 72.

OPENING MEETING, 96, 109, 114, 121.

ORDER OF BUSINESS, 53, 67, 96, 220.
Forms, 220, 221.

ORGANIZATION of a Corporation, 18.
of First Meeting, 24, 113.

OUTLINE MINUTES, 95, 130, 224.
Form, 223.

P

PAID UP STOCK, 35, 43, 149, 205, 216.

PARTIES, 21.

PAR, Issues of Stock for Less Than, 36.

PARLIAMENTARY LAW, 91.

PATENT, Assignment of.
Forms, 292, 293.

PAYMENT FOR STOCK IN PROPERTY. (See Exchange of Stock for Property.)

PENALTIES FOR INFRACTION OF BY-LAWS, 30, 90.

PLACE OF BUSINESS, 44, 67.
Change of, 23.

PLEDGEE, 48, 86.

POWERS OF ATTORNEY, 285. (See also Proxies.)
Forms, 285 to 290.

POWERS of Corporation, 24, 25, 26.
of Directors, 57, 64, 65.
of Officers. (See President, Secretary, etc.)
of Stockholders, 54.

PREFERRED STOCK, 41, 163.
Forms, 164, 165.
Rights of holders of, 54.

PRESIDENT, 72, 73, 74, 75.
Duties, 72, 96.
Election, 71.
Liabilities, 27, 81.
Removal, 72.
Resignation, 210.
Form, 210.
Report, 228.
Form, 228.
Salary, 64, 72.
Signature, 265 to 267.
Forms, 266 to 270.
Vice, 75.

PRINCIPAL OFFICE, 67.

PROCEDURE, 93 to 144.

PROMISSORY NOTES.
Forms, 271, 272.

PROOF OF NOTICE, 99, 110, 115, 121.
Forms, 280, 281.

PROPERTY, for Stock. (See Exchange of Property for Stock.)
of Corporation, 25.
Sale of Entire Property, 55, 111, 112, 205, 216.
Forms, 203, 204.

PROXIES, 51, 94, 97, 190.
Forms, 191 to 196.

PUBLICATION, 47, 93, 94, 99.
Forms, 245, 247.

PURPOSES, 21.

Q

QUALIFICATIONS of Directors, 49, 59.
of Incorporators, 21.
of Officers, 71.

QUORUM, at Directors' Meetings, 63, 115.
at Stockholders' Meetings, 50, 97.

R

RATIFICATION, 123, 202.
Form, 202.

READING OF MINUTES, 100, 116.

REAL PROPERTY. (See Land.)

RECEIPTS FOR SUBSCRIPTIONS, 153.
Forms, 154 to 159.

RECEIPTS AND DRAFTS, 269.
Forms, 270, 273.

RECORDS. (See Minutes.)

RECORDING, By-Laws, 33, 125.
Certificate of Incorporation, 23, 24.
Minutes, 126, 127, 128.

REGISTRY OF STOCK, 37, 38, 39, 41, 132, 298.
Forms, 298 to 305.

REDUCTION of Capital Stock, 23.
of Number of Directors, 23.

REMOVAL of Directors, 60.
of Officers, 64, 72.
of Principal Office, 23.

REPORTS, 101, 117, 142.
Forms, 228 to 231.
Annual, 101, 228.
Committee, 231.
Officers, 101, 117, 228, 229.
Tax, 142.

RESERVE FUND, 86.

RESIDENCE OF CORPORATION, 44, 67.

RESIGNATIONS, 207.
Forms, 207 to 211.

RESOLUTIONS, 129, 201. (See also Motions.)
Forms, 201 to 205.

REVOCATION OF PROXY, 196.
Form, 196.

RIGHTS OF STOCKHOLDERS, 54.

ROLL CALL, 97, 110. (See also List of Stockholders.)

RULES OF ORDER, 100.

S

SALARIES of Directors, 65.
of Officers, 64, 76, 77, 79, 80.

SALE, Bill of.
Form, 291.
of Entire Assets, 55, 111, 112, 203, 204.
Forms, 203, 204.
of Delinquent Stock, 36.
Ratification of.
Form, 202.

SEAL, 25, 89, 141, 179, 189.
Attestation of, 90, 141, 267.
Form, 268.

SECRETARY, 76, 141.
Books of, 41, 132.
Forms, 298 to 305.
Election, 64, 71.
Liabilities, 27, 81.
Oath.
Form, 305.
Removal, 72.
Salary, 64, 76.
Signature, 106.
Forms, 268, 269.

SHARES. (See Stock.)

SIGNATURE, Corporate and Official, 141, 265.
Forms, 266 to 270.
to Minutes, 106.
Forms, 252, 256, 258.

SPECIAL BUSINESS, 111, 112, 121, 122.

SPECIAL MEETINGS, 235. (See also Meetings, also Minutes.)
of Directors, 62, 120, 260.
Forms, 236, 237, 242, 247, 260.
of Stockholders, 46, 108, 235.
Forms, 202, 235, 239, 240, 241, 244, 245, 257, 259.

STOCK, 15, 16, 20, 34.
Book, 41, 139, 140.
Form, 301.
Certificates, 17, 37, 39, 133, 160.
Forms, 161 to 166.
Classification of, 34.
Common, 35.
Full Paid, 35, 43.
Guaranteed, 35.
Issued and Outstanding, 35.
Preferred, 41, 163.
Treasury, 43.
Unissued, 35.
Watered, 36.
Decrease of, 22, 23.
Increase of, 22, 23.
Issuance for Property. (See Exchange of Property for Stock.)
Ledger, 41, 139.
Form, 304.
Shares of, 15, 16.
Subscriptions to, 36, 145.
Forms, 146 to 152.
Transfer of, 38, 137, 138, 167.
Forms, 167, 298.

STOCKHOLDERS, 17, 19, 20, 45.
Liabilities of, 19, 55.
List of, 93, 95, 97, 110.
Forms, 221, 222.
Meetings of. (See also Meetings, also Minutes.)
First, 24, 113, 233.
Quorum, 50.
Annual, 45, 48, 93.
Special, 46, 108, 235.
Powers, 54.
Rights, 17, 47, 48, 54.

SUBSCRIPTIONS, 36, 145.
Forms, 146 to 152.
Receipts for, 153.
Forms, 153 to 159.

SURPLUS, 88.

T

TAXATION, 142, 143, 171, 174.

TESTIMONIUM CLAUSE, 268.
Forms, 268, 269.

Transcript from Minutes, Certified.
Form, 283.

Transfer Agent, 138.

Transfer Book, 38, 41, 137, 298.
Form, 298.

Transfers of Stock, 20, 38, 133, 137, 139, 167.
Forms, 167, 298.

Treasurer, Bond of, 77, 256.
Form, 306.
Books, 77.
Duties, 77.
Election, 64, 71.
Liabilities, 27, 81.
Powers, 77.
Removal, 72.
Report, 77.
Form, 229.
Resignation, 211.

Treasury Stock, 43.

Trustees. (See Directors.)

U

Ultra Vires Acts, 27.

Unfinished Business, 105, 117.

Unissued Stock, 35.

V

Vacancies, Directors, 60.
Officers, 64, 72.

Vice-President, 71, 75. (See President.)

Voting, 47, 48.
Cumulative, 48, 49.
Preferred Stock, 41.
Proxies, 51, 94, 97, 190.
Forms, 191 to 196.

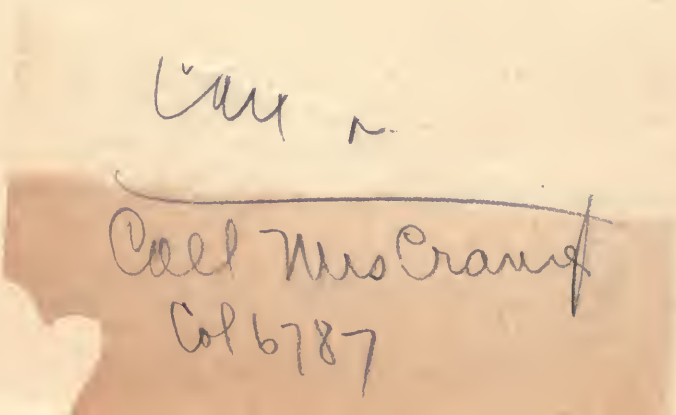
W

Waiver of Notice, 232.
Forms, 233 to 237.

Waiver of Assessment, 213.
Form, 213.

Watered Stock, 36.

Working Capital, 86.


Coll Mrs Crane
Col 6787

Female

...portunities.
Bonds.
...d Freight Forwarding.
...and Offices—To Let.
...ffices—Wanted to Rent.
...erty—For Sale.
...rty—To Let.

...ways & Steamships.

...nbalmers.

...ell or Exchange.

Over

Los ... Examiner

130

...Property.
...Orange, Lemon and Walnut Groves.
...Partners Wanted.
...Pasturage—Wanted or ...

...and Florists.

...ents.

A 000 692 053 2
UC SOUTHERN REGIONAL LIBRARY FACILITY